

<b>SOLICITATION, OFFER AND AWARD</b>			1. THIS CONTRACT IS A RATED ORDER UNDER DPAS 15 CFR 350		RATING		PAGE OF 1 58 PAGES		
2. CONTRACT NO.		3. SOLICITATION NO. DOC-52-PAPT-06-01010		4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED(RFP)		5. DATE ISSUED 2/24/2006		6. REQUISITION/PURCHASE NO. N/A	
7. ISSUED BY CODE U.S. Patent and Trademark Office Office of Procurement Mail Stop 6, P.O. Box 1450 Alexandria, VA 22313-1450				8. ADDRESS OFFER TO (If other than Item 7)					
Note In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".									
<b>SOLICITATION</b>									
9. Sealed offers in original and <u>3</u> copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried, in the depository location in <u>See Section L.4</u> until <u>2:00 P.M. Eastern Standard Time (EST), April 10, 2006.</u> (Hour) (Date) CAUTION - LATE Submissions, Modifications, and Withdrawals See Section L, Provision No. 52.214-7 or 52.215-10. All offers are subject to all terms and conditions contained in this solicitation.									
10. FOR INFORMATION Call		A. NAME Chris Hannah			B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS) (571) 272-6555				
<b>11. TABLE OF CONTENTS</b>									
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<b>OFFER (Must be fully completed by offeror)</b>									
<b>NOTE: Item 12 does not apply if the solicitation includes the provision at 52.214-16, Minimum Bid Acceptance Period.</b>									
12. In compliance with the above, the undersigned agrees, if this offer is accepted within <u>180</u> calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the tie specified in the schedule.									
13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)		10 CALENDAR DAYS %		20 CALENDAR DAYS %		30 CALENDAR DAYS %		CALENDAR DAYS %	
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated)		AMENDMENT NO.		DATE		AMENDMENT NO.		DATE	
15A. NAME AND ADDRESS OF OFFEROR		CODE		FACILITY		16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)			
15B. TELEPHONE NO. (Include area code)		<input type="checkbox"/>		15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE		17. SIGNATURE		18. OFFER DATE	
<b>AWARD (To be completed by Government)</b>									
19. ACCEPTED AS TO ITEMS NUMBERED		20. AMOUNT		21. ACCOUNTING AND APPROPRIATION					
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c)( ) <input checked="" type="checkbox"/> 41 U.S.C. 253(c)(5)				23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)			ITEM 25. N/A		
24. ADMINISTERED BY (If other than Item 7) CODE				25. PAYMENT WILL BE MADE BY U.S. Patent and Trademark Office Office of Finance, Mail Stop 17, P.O. Box 1450 Alexandria, VA 22313-1450 CODE					
26. NAME OF CONTRACTING OFFICER (Type or print)  Chris Hannah				27. UNITED STATES OF AMERICA  (Signature of Contracting Officer)			28. AWARD DATE		
IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.									

**SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS****B.1 PERFORMANCE BASED SERVICES CONTRACT**

This is a Request for Proposal (RFP) for a Performance Based Services Contract. The Contractor shall provide the services required in SECTION C – DESCRIPTION/SPECIFICATION/WORK STATEMENT at the prices proposed in this Section B. The offeror's SECTION B must follow the proposal requirements provided in Section L.3.6 Price Proposal.

**B.2 CONTRACT TYPE**

The Government will award a single contract that contains Fixed Price Requirements Contract Line Item Numbers (CLIN), Fixed Price Indefinite Delivery/Indefinite Quantity (IDIQ) CLINs, and one Firm Fixed Price CLIN as indicated below:

<u>CLIN</u>	<u>TYPE</u>
0001A through 0001K	Fixed Price Requirements
0002A through 0002K	Fixed Price IDIQ
0003A through 0003K	Fixed Price IDIQ
0004A through 0004K	Fixed Price IDIQ
0005A through 0005K	Fixed Price IDIQ
0006	Firm Fixed Price

This contract contains performance-based incentive packages that include a multi-tiered payment structure and award terms that can extend the period of performance of the contract. For the Requirements CLINs, realistic estimates are provided and for the IDIQ CLINs, the Government's minimum, maximum, and estimated quantities are provided. The estimated quantities will be added to the Firm Fixed Price CLIN and used for price proposal evaluation.

**B.3 CONTRACT PERIOD I (For a period of twelve months from the effective date of the contract)**

This is the contract base period.

CLIN	DESCRIPTION			Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0001A	Pre Grant Publication (PGPUB) Classification Utility Applications			*262040	<u>EA</u>		
CLIN	DESCRIPTION	Minimum	Maximum	Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0002A	Pre Grant Publication (PGPUB) Classification (Special Publication Cycle)	300	1200	650	<u>EA</u>		
0003A	Issuing Patents Classification Corrections	0	8000	2000	<u>EA</u>		
0004A	Pre-Grant Classification Changes	0	5000	1500	<u>EA</u>		
0005A	Researching Primary Classification used for Final Routing	0	10000	**2000	<u>EA</u>		
CLIN	DESCRIPTION				Unit	Unit Price	FIXED PRICE
0006	Contract Start-Up				<u>Lot</u>		

\*Based on 75% of the entire quantity of applications available during the twelve-month period.

\*\* Quantity not based on historical data.

**B.4 CONTRACT PERIOD II (Date of Option Exercise to one year thereafter)**

This period of performance is an option period to be exercised at the Government's option in accordance with Clause H.3.

CLIN	DESCRIPTION			Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0001B	Pre Grant Publication (PGPUB) Classification Utility and Plant Applications			*373860	<u>EA</u>		
CLIN	DESCRIPTION	Minimum	Maximum	Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0002B	Pre Grant Publication (PGPUB) Classification (Special Publication Cycle)	310	1250	680	<u>EA</u>		
0003B	Issuing Patents Classification Corrections	0	8000	2000	<u>EA</u>		
0004B	Pre-Grant Classification Changes	0	5200	1600	<u>EA</u>		
0005B	Researching Primary Classification used for Final Routing	0	10000	**2000	<u>EA</u>		

\*Based on the entire quantity of applications available during the twelve-month period.

\*\* Quantity not based on historical data.

**B.5 CONTRACT PERIOD III (Date of Option Exercise to one year thereafter)**

This period of performance is an option period to be exercised at the Government's option in accordance with Clause H.3.

CLIN	DESCRIPTION			Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0001C	Pre Grant Publication (PGPUB) Classification Utility and Plant Applications			*400060	<u>EA</u>		
CLIN	DESCRIPTION	Minimum	Maximum	Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0002C	Pre Grant Publication (PGPUB) Classification (Special Publication Cycle)	320	1300	700	<u>EA</u>		
0003C	Issuing Patents Classification Corrections	0	8000	2000	<u>EA</u>		
0004C	Pre-Grant Classification Changes	0	5400	1700	<u>EA</u>		
0005C	Researching Primary Classification used for Final Routing	0	10000	**2000	<u>EA</u>		

\*Based on the entire quantity of applications available during the twelve-month period.

\*\* Quantity not based on historical data.

**B.6 CONTRACT PERIOD IV (Date of Option Exercise to one year thereafter)**

This period of performance is an option period to be exercised at the Government's option in accordance with Clause H.3.

CLIN	DESCRIPTION			Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0001D	Pre Grant Publication (PGPUB) Classification Utility and Plant Applications			*428020	<u>EA</u>		
CLIN	DESCRIPTION	Minimum	Maximum	Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0002D	Pre Grant Publication (PGPUB) Classification (Special Publication Cycle)	330	1350	730	<u>EA</u>		
0003D	Issuing Patents Classification Corrections	0	8000	2000	<u>EA</u>		
0004D	Pre-Grant Classification Changes	0	5600	1800	<u>EA</u>		
0005D	Researching Primary Classification used for Final Routing	0	10000	*2000	<u>EA</u>		

\*Based on the entire quantity of applications available during the twelve-month period.

\*\* Quantity not based on historical data.

**B.7 CONTRACT PERIOD V (Date of Option Exercise to one year thereafter)**

This period of performance is an option period to be exercised at the Government's option in accordance with Clause H.3.

CLIN	DESCRIPTION			Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0001E	Pre Grant Publication (PGPUB) Classification Utility and Plant Applications			*457980	<u>EA</u>		
CLIN	DESCRIPTION	Minimum	Maximum	Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0002E	Pre Grant Publication (PGPUB) Classification (Special Publication Cycle)	340	1400	750	<u>EA</u>		
0003E	Issuing Patents Classification Corrections	0	8000	2000	<u>EA</u>		
0004E	Pre-Grant Classification Changes	0	5800	1900	<u>EA</u>		
0005E	Researching Primary Classification used for Final Routing	0	10000	**2000	<u>EA</u>		

\*Based on the entire quantity of applications available during the twelve-month period.

\*\* Quantity not based on historical data.

**B.8 CONTRACT PERIOD VI (Date of Award Term to one year thereafter)**

This is an award term to be awarded in accordance with Clause B.13.4.

CLIN	DESCRIPTION			Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0001F	Pre Grant Publication (PGPUB) Classification Utility and Plant Applications			*490020	<u>EA</u>		
CLIN	DESCRIPTION	Minimum	Maximum	Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0002F	Pre Grant Publication (PGPUB) Classification (Special Publication Cycle)	350	1450	780	<u>EA</u>		
0003F	Issuing Patents Classification Corrections	0	8000	2000	<u>EA</u>		
0004F	Pre-Grant Classification Changes	0	6000	2000	<u>EA</u>		
0005F	Researching Primary Classification used for Final Routing	0	10000	**2000	<u>EA</u>		

\*Based on the entire quantity of applications available during the twelve-month period.

\*\* Quantity not based on historical data.



**B.9 CONTRACT PERIOD VII (Date of Award Term to one year thereafter)**

This is an award term to be awarded in accordance with Clause B.13.4.

CLIN	DESCRIPTION			Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0001G	Pre Grant Publication (PGPUB) Classification Utility and Plant Applications			*524320	<u>EA</u>		
CLIN	DESCRIPTION	Minimum	Maximum	Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0002G	Pre Grant Publication (PGPUB) Classification (Special Publication Cycle)	360	1500	800	<u>EA</u>		
0003G	Issuing Patents Classification Corrections	0	8000	2000	<u>EA</u>		
0004G	Pre-Grant Classification Changes	0	6200	2100	<u>EA</u>		
0005G	Researching Primary Classification used for Final Routing	0	10000	**2000	<u>EA</u>		

\*Based on the entire quantity of applications available during the twelve-month period.

\*\* Quantity not based on historical data.

**B.10 CONTRACT PERIOD VIII (Date of Award Term to one year thereafter)**

This is an award term to be awarded in accordance with Clause B.13.4.

CLIN	DESCRIPTION			Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0001H	Pre Grant Publication (PGPUB) Classification Utility and Plant Applications			*561000	<u>EA</u>		
CLIN	DESCRIPTION	Minimum	Maximum	Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0002H	Pre Grant Publication (PGPUB) Classification (Special Publication Cycle)	370	1550	830	<u>EA</u>		
0003BH	Issuing Patents Classification Corrections	0	8000	2000	<u>EA</u>		
0004BH	Pre-Grant Classification Changes	0	6400	2200	<u>EA</u>		
0005BH	Researching Primary Classification used for Final Routing	0	10000	**2000	<u>EA</u>		

\*Based on the entire quantity of applications available during the twelve-month period.

\*\* Quantity not based on historical data.

**B.11 CONTRACT PERIOD IX (Date of Award Term to one year thereafter)**

This is an award term to be awarded in accordance with Clause B.13.4.

CLIN	DESCRIPTION			Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0001J	Pre Grant Publication (PGPUB) Classification Utility and Plant Applications			*600260	<u>EA</u>		
CLIN	DESCRIPTION	Minimum	Maximum	Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0002J	Pre Grant Publication (PGPUB) Classification (Special Publication Cycle)	380	1600	850	<u>EA</u>		
0003J	Issuing Patents Classification Corrections	0	8000	2000	<u>EA</u>		
0004J	Pre-Grant Classification Changes	0	6600	2300	<u>EA</u>		
0005J	Researching Primary Classification used for Final Routing	0	10000	**2000	<u>EA</u>		

\*Based on the entire quantity of applications available during the twelve-month period.

\*\* Quantity not based on historical data.

**B.12 CONTRACT PERIOD X (Date of Award Term to one year thereafter)**

This is an award term to be awarded in accordance with Clause B.13.4.

CLIN	DESCRIPTION			Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0001K	Pre Grant Publication (PGPUB) Classification Utility and Plant Applications			*642280	<u>EA</u>		
CLIN	DESCRIPTION	Minimum	Maximum	Estimate	Unit	Unit Price	ESTIMATED TOTAL PRICE
0002K	Pre Grant Publication (PGPUB) Classification (Special Publication Cycle)	390	1650	880	<u>EA</u>		
0003K	Issuing Patents Classification Corrections	0	8000	2000	<u>EA</u>		
0004K	Pre-Grant Classification Changes	0	6800	2400	<u>EA</u>		
0005K	Researching Primary Classification used for Final Routing	0	10000	**2000	<u>EA</u>		

\*Based on the entire quantity of applications available during the twelve-month period.

\*\* Quantity not based on historical data.

## **B.13 MEASUREMENT OF PERFORMANCE**

### **B.13.1 Determination of Error Rate**

The term “Error Rate” refers to percent of incorrect classifications provided by the contractor to the USPTO. The USPTO will randomly sample classified applications under each of CLIN 0001, and corresponding CLINS during the option periods, on a monthly basis. The sample size for each CLIN will be the greater of 1% of the applications classified by the contractor or 300 applications, except that if the contractor has classified less than 300 applications under a specific CLIN the sample size shall be 100% of the applications classified. If the initial sample shows an error rate between 10.01% to 15%, the Government will increase the sample size to the greater of 3% or 900 applications.

For each CLIN sampled, the Government will establish three partial error rates reflecting primary classification errors, Mandatory/Discretionary classification errors, and IPC classification errors. The primary classification error rate will be calculated by dividing the number of errors in assigning a primary classification by the number of applications sampled. The Mandatory/Discretionary classification error rate will be calculated by dividing the number of Mandatory and Discretionary classification errors by the total number of Mandatory and Discretionary classifications that should have been assigned to the sampled applications. The IPC error rate will be calculated by dividing the number of IPC classification errors by the number of IPC classifications that should have been assigned to the sampled applications.

The overall error rate for each CLIN sampled will be determined by multiplying the primary classification error rate by 0.5, the Mandatory/Discretionary error rate by 0.25, and the IPC error rate by 0.25; summing the three rates; and multiplying the sum by 100 to establish a percentage. As the USPTO transitions to an international classification system, the weights may change in the future.

### **B.13.2 Determination of Speed**

The term “Speed” refers to the percentage of applications that are processed on time and are not overdue. As directed by the Government, the contractor will have a specified period of time to provide the necessary classifications. The day count begins the day an application is made available for classification and ends on the day the contractor provides the required data by the method specified in section C.5 of this contract. An overdue application is any application for which the specified period of time has elapsed and the contractor has still not provided the required data by the means specified in Section C.5 of the contract. The USPTO will perform 100% inspection for compliance with the stated time standard per application. The Government will review the contractor's compliance with the time standards and will calculate the average “speed” of the contractor for each month. The total number of applications submitted late during the evaluated monthly period plus the number of applications that are overdue at the end of the evaluated monthly period will be divided by the total number of applications submitted for the evaluated monthly period. This result will be subtracted from one and multiplied by 100 to establish Speed, i.e., the rate of speed the applications are completed expressed as a percent of the time standard (see the Speed column in the table of paragraph B.13.3). This figure will be used in calculating performance-based adjustments to the unit price for each CLIN in the contractor's invoices for the measured period.

Example A:  $1 - ((10 \text{ applications submitted late} + 20 \text{ applications overdue}) / 30000 \text{ applications}) = 0.999 \text{ or } 99.9\%$

Example B:  $1 - ((125 + 175)/30000) = 0.99 \text{ or } 99\%$

**B.13.3 Performance Based Price Adjustments**

Price adjustments are designed to provide incentives and to assure performance of all requirements at or above the Government's Acceptable Quality Level. Acceptable Quality Levels per CLIN are provided in Section C and in the Performance Requirements Summary (PRS) in Attachment A.

Quality must be recognized as a vital requirement of this Contract. Government Quality Assurance shall be performed in accordance with Section E.

Prices listed in the Offeror's proposal and subsequently incorporated via contract award will be subject to the following performance based adjustments:

<b>Speed</b>	<b>Error Rate</b>	<b>Incentive Paid</b>
When applications are completed within ___% of Time Standard	When CLIN Error Rate is ___%	The following unit price adjustment will be applied per CLIN for the evaluated period.
96	0-1%	6% of CLIN price added to CLIN price
96	1.01-2%	4% of CLIN price added to CLIN price
96	2.01-3.49%	2% of CLIN price added to CLIN price
96	3.5-5%	None (CLIN price will be paid)
96	5.01-6.5%	2% of CLIN price subtracted from CLIN price
96	6.51-8%	4% of CLIN price subtracted from CLIN price
96	8.01%-10%	6% of CLIN price subtracted from CLIN price
96	10.01-15%	10% of CLIN price subtracted from CLIN price**
96	15.01-20%	20% of CLIN price subtracted from CLIN price**
93 – 95.9	0-5%	5% of CLIN price subtracted from CLIN price
93 – 95.9	5.01-10%	10% of CLIN price subtracted from CLIN price
93 – 95.9	10.01-15%	15% of CLIN price subtracted from CLIN price**
93 – 95.9	15.01 -20%	25% of CLIN price subtracted from CLIN price**
Less than 93%	Any	50% of CLIN price subtracted from CLIN price **
Any	>20%	**

\*\* Contractor performance at this level may lead to the return of the entire month's production for re-performance and/or termination for default. If the initial sample shows an error rate between 10.01% to 15%, the Government will increase the sample size to the greater of 3% or 900 applications.

**Any applications not classified within a total of 56 calendar days after receipt by the contractor may result in discontinuance of assignment of work under the contract.**

**B.13.4 Award Terms**

Sixty days prior to the expiration of each of contract periods I -- V, a contract review board will convene to determine whether or not an award term shall be converted to an option period based upon the contractor's performance during the course of the previous year. In order to be eligible for the conversion of an award term, the contractor must perform each month at the acceptable quality level, defined as an Error Rate of 5% or less and a Speed rating of at least 96%. No individual month can fall below this standard. Additionally, conversion of an award term will be based on subjective criteria such as the contractor's performance on discretionary classifications, the contractor's performance on offensive material review, the contractor's responsiveness to legitimate USPTO requests, and other aspects of performance.

The contract review board's determination will be implemented as follows: If the board determines that conversion of an award term is warranted, the first (lowest numbered) remaining award term of the contract will be converted to an option period exercisable in accordance with paragraph 17.207 of the FAR. If the board determines that conversion of an award term is not warranted, the last (highest numbered) remaining award term will be permanently removed from the contract. Thus, the review board convened at the end of the contract period I will either convert contract period VI from an award term to an option period, or will remove contract period X from the contract.

**B.14 PRICE REDUCTION**

It is anticipated that the contractor's unit cost may decrease during the contract term due to increased efficiencies and improved risk management based upon enhanced understanding of the USPTO's requirements. At any time during contract performance, but no more frequently than every six months, the contractor may submit a proposal to reduce its contract pricing. The USPTO will review the proposal for price realism and any potential unbalancing, and may request supporting documentation if appropriate. If the USPTO determines that the proposed reduced pricing is realistic and not unbalanced, the parties will execute a bilateral modification implementing the reduced prices. If the contractor wishes to have reduced prices considered in the USPTO's determination to exercise or not exercise a contract option, the contractor shall submit its reduced pricing proposal at least 90 days before the expiration of the current period of contract performance, as applicable.

## SECTION C – STATEMENT OF OBJECTIVES

### C.1 OVERVIEW

The contractor shall furnish the necessary personnel, material, equipment, services, and facilities (except as otherwise provided or specified) to perform Pre-Grant Publication Classification Services as detailed in this solicitation.

The United States Patent and Trademark Office (USPTO) seeks to award a contract to vendors with superior management, past performance, and pricing to provide USPTO with classification services for the next 5 years in order to benefit the USPTO's core business mission, which is the examination, granting, and dissemination of patents and trademarks. The contract will also provide the possibility of earning up to a total of five, one-year award term years based on sustaining superior performance.

It is the responsibility of the Offerors to monitor the following website for any revisions to the solicitation, solicitation amendments, and all questions and answers related to this procurement:

<http://www.uspto.gov/web/offices/ac/comp/proc/currproj.htm>

In order to successfully implement the acquisition process, the USPTO seeks the cooperation of the vendor community in an effort to conduct business fairly, in an atmosphere of integrity and openness. The USPTO highly encourages the use of alternative dispute resolution procedures to settle any disagreement resulting from the issuance of the RFP such as the Department of Commerce's (DOC) agency level protest procedures in Section L.

To satisfy the needs of all interested parties within the USPTO, a cross-functional Project Team has been formed. The Project Team is empowered to conduct this procurement.

The USPTO is an agency comprised of approximately 7,500 employees, plus an estimated 1,000 contractor support personnel located in Alexandria and Crystal City/Arlington, VA.

The Government Performance and Results Act (GPRA) places management expectations and requirements on Federal agencies by creating a framework for more effective planning, budgeting, program evaluation and fiscal accountability for Federal programs. The intent of this act is to focus clearly on results and to improve public confidence in Federal agency performance by holding agencies accountable for achieving program goals. GPRA requires agencies to define their mission, establish goals, and determine how those goals will be met, establish performance measures, use the information gathered from those performance measures to make improvements, and report on their accomplishments. USPTO's streamlined acquisition process uses GPRA as its springboard to launch new projects and acquisitions.

In keeping with GPRA, the Clinger-Cohen Act of 1996 (CCA) was enacted to require that agencies set goals, measure performance, and report on progress in improving the efficiency and effectiveness of operations through the use of information technology. Consistent with GPRA and CCA, any contract resulting from the RFP will contain performance-based measures emphasizing high-quality state-of-the-art products, timely delivery, and superior services to our customers.

### C.2 PROJECT OBJECTIVE

The objective of this project is to provide the USPTO with quality Classification services over the next 1 to 10 years to benefit its core business mission, which is the examination, granting, and dissemination of patents and trademarks.

The Offeror shall provide:

- 1) Quality Assurance/Quality Control
- 2) Responsive contract management;
- 3) Accurate classification work;
- 4) Timely delivery; and
- 5) An open and supportive relationship with USPTO



### C.3 PROJECT BUDGET

The following government estimate is provided for this requirement for information only. The USPTO reserves the right to award a contract in an amount in excess of the government estimate.

Year 1 of the requirement -	\$6,750,097
Year 2 of the requirement -	\$9,902,047
Year 3 of the requirement -	\$10,957,146
Year 4 of the requirement -	\$12,126,853
Year 5 of the requirement -	\$13,416,648
Total for years 1 through 5 -	\$53,152,791

### C.4 SCOPE OF WORK

This contract is to fulfill the USPTO requirements for Pre-Grant Publication Classification Services. Quality must be clearly recognized as a vital and mandatory requirement of this contract. It is anticipated that specific requirements will change over the life of this contract. This will result in the USPTO modifying this contract to incorporate in-scope changes. Further, given the pace of change in information technology and the telecommunications marketplace, it is impossible to anticipate how individual USPTO requirements will evolve over the life of the contract. Throughout the life of this agreement, the contractor is encouraged to continuously seek ways to incorporate innovative and emerging technologies that in the most economic and efficient manner improve systems and mission performance.

(a) The United States Patent and Trademark Office (USPTO) receives the following types of patent applications: Utility, plant, reissue, design, provisional, and international. International applications are filed and processed under Patent Cooperation Treaty (PCT) provisions. National stage applications also are filed under PCT provisions, but are examined in the same manner as applications filed directly with the USPTO. The international and national stage applications are received in and initially processed by the PCT Operations office.

(b) Utility applications request patent protection for a new and useful process, machine, article of manufacture, or compositions of matter, or any new and useful improvement thereof. In a design application, the subject matter is a new, original, and ornamental design for an article of manufacture. Plant applications cover the invention or discovery and asexual reproduction of any distinct and new variety of plants. A provisional application provides a lower cost first patent filing in the United States and provides the means to establish an early effective filing date in a subsequent patent application. Provisionals are not examined for patentability. A reissue application is an application for a patent to take the place of an unexpired patent that is defective in some one or more particulars. (See Chapter 200 of the Manual of Patent Examining Procedures—MPEP—for a detailed discussion of application types.) All of these applications are considered US applications and are received in and initially processed by the Office of Initial Patent Examination (OIPE).

(c) The American Inventors Protection Act of 1999 (AIPA) requires the publication of pending patent applications “promptly after” 18 months from earliest filing or priority date, or earlier if requested. Only plant and utility applications are published under this Pre-Grant Publication (PGPub) requirement; however, there are exceptions to this required publication. Prior to publication, PGPub data is assigned. The minimum PGPub data is a Representative Figure (if any), a Primary USPC and a Primary IPC. An additional Figure and additional Mandatory and Discretionary USPCs and IPCs may also be appropriate.

(d) The USPTO is currently using a prototype Application Routing Tool (ART) to determine a routing classification. The routing classification includes a class, subclass, and group art unit (GAU). ART begins by identifying a number of granted US patent documents similar to the pending application. It looks up the most representative classifications of the identified patents and sorts by classification. The net result is a listing of “most probable” class and subclass pairs arranged in descending order of probability. In a final lookup, the GAU examining each classification is identified and the application is routed to the most probable GAU. If the ART results are available for a patent application, the office will provide these results to the contractor at the time the application is made available for Pre-Grant Publication classification. As long as the USPTO continues to employ ART, the contractor will be provided the results of this automated search.

(e) The USPTO reviews the routing of applications prior to examiners beginning the examination process. This may occur many months or even a year or more after the application was originally classified. As a result, the USPTO may question the Primary classification used for routing purposes to determine the Art Unit assigned to examine the application. Such questions would not be related to routine errors in the Primary classification, but would relate to situations where the USPTO cannot readily determine the correct Primary classification to be used for final routing purposes. The Primary classification may be in question due to subject matter not being covered adequately by the USPC, subject matter being found in more than one classification in the USPC, vague claim language, etc. Such questioned Primary classifications need further research to be performed to aid the USPTO in determining the best Art Unit to examine the application.

(f) The USPTO does not currently validate USPC or IPC classifications when they are assigned by the examiner at the time of allowance of an application. A number of months after the examiner assigns the classifications, when the allowed application is being prepared for publication, the classifications are validated for input into the classification databases. If invalid classifications are found, the correct classifications will need to be provided by the contractor for the classification databases before the granted patent publishes. A review of any other valid classifications assigned to the allowed patent application is usually not necessary. The USPTO plans to validate classifications when the examiner assigns them at time of issue, therefore, fewer classifications may need correcting at the time of publication.

(g) The USPTO validates all PG PUB classification data before an application is sent to the publisher. Applications that have been previously classified will sometimes fail to validate because a previously assigned classification has been abolished. When this occurs, the contractor will be required to change the abolished classification to the appropriate active classification.

## C.5 REFERENCES

The Contractor shall classify according to the policy and guidance provided in this clause of the contract and as otherwise directed by the Government. The contractor is responsible for keeping current with posted updates and shall classify according to the most recent update version for each reference.

- Advance Classification Orders (USPC) – See Sample 1
- Manual of Classification (USPC and IPC) -- <http://www.uspto.gov/go/classification/>
- Subclass Data File (SDF) – See Sample 2
- IPC Valid Symbols File – See Sample 3
- Classification Definitions (USPC and IPC) -- USPC Defs: <http://www.uspto.gov/go/classification/>
- IPC Schedules: <http://www.wipo.int/classifications/ipc/ipc8/?lang=en> • USPC and IPC Catchword Index – USPC Index: <http://www.uspto.gov/go/classification/uspcindex/indextouspc.htm>
- IPC Catchword Index: <http://www.wipo.int/classifications/ipc/ipc8/?lang=en> • US-IPC Concordance. -- <http://www.uspto.gov/go/classification/index.htm>
- MPEP -- <http://www.uspto.gov/web/offices/pac/mpep/index.html>
- Handbook of Classification for the USPC <http://www.uspto.gov/web/offices/opc/documents/handbook.pdf>
- Guide to the IPC -- <http://www.wipo.int/classifications/ipc/ipc8/guide/en/guide.pdf>
- Overview of the Classification System <http://www.uspto.gov/web/offices/opc/>  
USPC Classifications “Arranged by Related Subjects”  
<http://www.uspto.gov/web/offices/opc/documents/classescombined.pdf>

## C.6 REQUIREMENTS

### C.6.1 Mandatory Classification

The contractor will review and analyze each application’s content and will, in accordance with guidance provided by the Government, determine the appropriate classifications to be assigned. Each application will be assigned one or more “Mandatory” classifications in each of the USPC and the IPC (also referred to as “obligatory” or “invention” information in the IPC).

**C.6.2 Discretionary Classification**

Discretionary classifications in each of the USPC and the IPC (also referred to as “non-obligatory” or “non-invention” information in the IPC) will be assigned to an application as appropriate. Specific guidance for assigning discretionary classifications may be provided by the USPTO for certain technologies. Any discretionary classifications shall be specified as such.

**C.6.3 Primary Classifications**

The contractor will select the appropriate US Mandatory classification and designate it as the “Primary” classification. See the Handbook of Classification for the USPC (See paragraph C.4). Using the Primary classification provided by the contractor, the Government will assign the Tech Center/Art Unit to which the application should be routed for examination.

**C.6.4 Correction of Classifications for Issuing US Patents**

The contractor will provide corrected classifications for Issuing US Patents that have been assigned invalid or inappropriate USPC or IPC classifications (CLIN's 0003A through 0003K). The process for classifying Issuing US Patents is the same as for applications. For Issuing US Patents, Original USPC classifications are the equivalent of Primary classifications.

**C.6.5 Pre-Grant Classification Changes**

The contractor will provide corrected PG PUB classifications for applications where the USPC or IPC classification has been abolished prior to the date the application is scheduled for transmission to the publisher (CLIN 0004A through 0004K). The contractor will receive a listing of these applications on a weekly basis and will be required to correct these abolished classification entries.

**C.6.6 Researching Classifications**

On occasion, the contractor will be required to perform research, determine the most appropriate Primary classification and provide appropriate justifications (CLIN 0005A through 0005K). The contractor will justify the most appropriate primary classification and any other highly relevant classifications by citing relevant classification schedules/definitions/rules/policies and/or patents.

**C.6.7 Representative Figures**

For each application, the contractor is required to select one or two representative figures for use in publication of the application. Ordinarily, a single figure will be selected for printing. The figure should be illustrative of or helpful in understanding the claimed invention and must not be one that is labeled prior art. The contractor shall select the figure that best represents the invention. If there is no appropriate figure available, an appropriate designation (such as “none”) shall be selected.

**C.6.8 Plant Applications**

The classification of plant applications is not contemplated in this solicitation. The government may consider adding this requirement via a bilateral contract modification in the future.

**C.6.9 Offensive Material Review**

The contractor will review each application for offensive material that may affect an application's publication. Applications that may contain subject matter considered to be offensive will be classified then referred to the Government for review. The Deputy Commissioner for Patent Examination Policy has issued the following guidance on reviewing applications for offensive material.

(1) Offensive material is defined in the dictionary as unpleasant, disgusting, revolting, repugnant, causing resentment or anger or insulting. Examples of potentially offensive disclosures in an application are:

- Material suggestive of terrorist activity (e.g., a figure of a plane colliding with a building or methods of delivery of toxins to the Government or general public);
- Graphic sexual illustrations or descriptions;
- Applications obviously devoid of statutory subject matter (e.g., unibomber's manifesto); or
- Applications including derogatory comments concerning the Government.

**C.6.10 Summary**

The Performance Requirements Summary (PRS) is provided in Attachment A.

For each chemical, electrical, and mechanical application reviewed, the contractor will provide to the Government the following data (CLIN's 0001A through 0001K and 0002A through 0002K):

- Application serial number
- All mandatory classifications (US and IPC)
- All discretionary classifications (US and IPC)
- Primary classification (US)
- Representative figure(s) (or an indication none are appropriate)
- Results of review for offensive material

For each application in the normal publication cycle, the contractor must provide the required information within 28 calendar days of receiving the application. For each application in the special publication cycle, the contractor must provide the required information within 10 calendar days of receiving the application. For each Issuing US Patent for which at least one replacement or other appropriate classification is requested (CLIN 0003A through 0003K), the contractor will provide the following:

- Patent number
- Replacement or other classification (including designation of the Original classification, if necessary)

For each Issuing US Patent for which at least one valid or appropriate classification is needed, the contractor must provide the required information within 14 calendar days of receiving the request.

For each application where a previously assigned PGPub USPC or IPC classification has been abolished, the contractor will provide corrected classification data (CLIN 0004A through 0004K). The corrected information must be provided within 14 calendar days of receiving the list. The contractor shall provide:

- Application serial number
- Replacement or other classification (including designation of the primary classification, if necessary)

For each application researched (CLIN 0005A through 0005K), the contractor will provide the following documentation, as appropriate, to justify the classifications:

- Application serial number
- Primary classification (US)
- All mandatory classifications (US)
- Reference to schedules and definitions
- Reference to classification rules or policies
- Example patent(s) showing the classification of similar prior art

For each application researched, the contractor must provide the required information within 21 calendar days of receiving the request. As specified by the Government, the contractor shall provide the Government with this information in MSWord (compatible with Microsoft Office 2000) or other Government-approved electronic software/format.

It shall be noted that an essential requirement of this contract is the safeguarding of patent application information. The contractor shall not remove any patent application information from the USPTO-designated and approved work site. Failure to comply with this requirement may result in termination for default and legal action.

**C.7 CONTRACT START-UP (See Item 0006 under Section B and Section L.3.1.3)**

The Contractor will be required to begin performance of the USPTO's full pre-grant classification requirements no later than six months after award. The USPTO prefers, but does not require, that the contractor begin performance, on a full or partial basis, earlier than six months from award.

During the start-up period, the Government will make reasonable resources available to review preliminary work completed by the contractor and to provide feedback on that work. However, the Government will pay the amounts set forth in CLINS 1 through 5 only for work that is submitted for payment in accordance with the terms of the RFP and that meets the quality and timeliness requirements set forth in sections B and C. All other work performed by the contractor during the start-up period will be compensated only through the fixed start-up price established under CLIN 6 of the contract. The contractor's work covered by the start-up price shall be deemed to have been delivered to the Government upon the contractor's commencement of full production under the contract and completion of one month's work in a manner that fully complies with all requirements of the contract. In accordance with FAR 52.232-28, paragraph I.5 of this RFP, offerors are invited to propose terms for performance-based financing payments during the start-up period. For purposes of paragraph (c)(2)(iii) of provision 52.232-28, the total of performance-based payments shall not exceed 90% of an offeror's CLIN 6 price. The offeror's start-up price shall not exceed 10% of the sum of the offeror's estimated total prices for Contract periods I through V, not including the CLIN 6 price.

Proposals under this RFP shall include a start-up plan. The plan shall describe in detail the steps the offeror intends to use to ensure that it is capable of full production under the contract no later than six months from award. In addition to any and all information necessary to explain the offeror's proposed start-up approach, the plan shall include the following information:

- The offeror's proposed phase-in schedule, including specific milestones for entering production at specific rates.
- A schedule setting forth the offeror's requirements for receipt of patent applications for classification during the start-up period, including any applications needed for the contractor's internal training and testing purposes as well as applications that will be classified on a production basis.
- If the offeror proposes to submit classified applications to the USPTO for evaluation prior to entering production, a schedule indicating the approximate number of applications that will be submitted and the approximate time period in which they will be submitted.

**C.8 QUALITY CONTROL**

The Government will sample classification work performed by the contractor in accordance with the Measurement of Performance clause (B.13) of this contract. For an overview of the quality checking process, see Attachment "D".

Quality checking of PGPub classification work will be done by sampling. The Government will review a sample each month to determine the quality of US and international classifications assigned. Mandatory classifications assigned will be reviewed to determine their correctness and to ensure all required classifications are present. Incorrect and missing mandatory classifications will be considered errors. Discretionary classifications will be reviewed to ensure any specific supplemental guidance provided by the USPTO was followed. Instances of failure to follow such guidance (e.g., failing to provide required discretionary classifications) will be considered errors. International classifications assigned by the contractor will be reviewed to ensure all appropriate "Mandatory" (also referred to as "obligatory") IPC classifications are present. The absence of a valid mandatory IPC will be considered an error. The Government will calculate a monthly error rate.

The contractor will be provided notice of each classification error determined by the Government, as well as data on quality review results such as the identification of specific classifications in which a high rate of errors is occurring. The Government's determination of classification errors shall be final for all purposes unless disputed by the contractor within 14 calendar days of notice to the contractor of the determination. At its discretion, the Government may provide or may require the contractor to provide additional training to contract staff to improve classification assignment.



**C.9 WORKFLOW PROCESS**

Every business day, the USPTO will create an electronic file containing application images for applications that require pre-grant publication classification and/or other classification processing by the contractor. The USPTO will also provide a file designating the application(s) in the special publication cycle. The USPTO will make the electronic files containing the application images available every business day. The USPTO estimates the average application contains 60 pages with an average image size per page of 55 kilobytes. The contractor must provide a mechanism for receiving and storing the image files. The contractor will verify the receipt, retrievability, and usability of this data and will utilize it to determine the appropriate classifications required for each application. Within 1 business day of receiving application data from the USPTO, the contractor will notify the designated individual of successful receipt and will request replacement of unreadable/unusable data and provision of missing data needed to complete the work. In general, if the contractor has available an application's specification, claims and drawings, the work can be completed as required. The USPTO will provide the contractor with sufficient pages of a jumbo application to complete the work, but may not provide the entire application.

The contractor shall provide electronic data files containing the required classification data for completed applications to the USPTO.

**C.10 GOVERNMENT FURNISHED EQUIPMENT/INFORMATION**

The USPTO will provide the contractor with Government Furnished Information in the form of patent application files. The USPTO will also provide access to PubWest (a web based patent examiner search engine). The contractor shall maintain the confidentiality of patent application files and all information contained therein. The contractor must adequately protect all application files, application data, and all communications and storage media during all phases of processing. The contractor must have adequate procedures for restricting access to every copy of the data to only those contractor personnel that must have access to the patent application data to fulfill the contract requirements. The contractor must establish effective procedures to prevent unauthorized access to the confidential data.

On very rare occasion, the USPTO may request that the contractor delete all data for a specified patent application. If the USPTO requires deletion of data for a specified patent application, the contractor will not be required to provide classification data for the specified patent application. The contractor will have 5 workdays after the USPTO notifies the contractor to permanently delete all records and copies of records including back-up copies.

**C.11 REPORTING REQUIREMENT**

The contractor shall provide daily, weekly, and monthly reports as required.

**SECTION D - PACKAGING AND MARKING**

Any deliverable/report required under this contract shall be delivered in accordance with standard commercial practices and shall be marked with the Contract Number. Deliverables, reports and manuals may also be requested to be submitted electronically.



**SECTION E - INSPECTION AND ACCEPTANCE****E.1 52.252-01 CLAUSES INCORPORATED BY REFERENCE**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

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<http://www.arnet.gov/far/>  
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52.246-04	Inspection of Services – Fixed Price	AUG 1996
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**E.2 QUALITY ASSURANCE SURVEILLANCE PLAN**

The proposed Quality Control Plan of the Successful Offeror will be incorporated into the resulting contract award for performance by the Successful Offeror. The Quality Control Plan may be modified during the contract life as deemed necessary. The Quality Control Plan is designed to ensure quality assurance in order to meet the quality standards specified in Section C and the Performance Requirements Summary (PRS) in Attachment A. See Section L.3 for proposal requirement.

**SECTION F – DELIVERIES OR PERFORMANCE****F.1 52.252-01 CLAUSES INCORPORATED BY REFERENCE**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

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<http://www.arnet.gov/far/>  
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52.242-15	Stop Work Order	AUG 1989
52.242-17	Government Delay of Work	APR 1984
52.247-34	F.o.b. Destination	NOV 1991

**F.2 EFFECTIVE PERIOD OF THE CONTRACT**

The effective period of this contract is as follows:

Contract Period I	Performance will begin on the effective date of contract award and continue through one year thereafter. Up to six months of contract period I shall be performed in accordance with CLIN 0006 (see also Section C.6 of this RFP)
Contract Period II	Date of Option Exercise to one year thereafter
Contract Period III	Date of Option Exercise to one year thereafter
Contract Period IV	Date of Option Exercise to one year thereafter
Contract Period V	Date of Option Exercise to one year thereafter
Contract Period VI	Date of Award Term to one year thereafter
Contract Period VII	Date of Award Term to one year thereafter
Contract Period VIII	Date of Award Term to one year thereafter
Contract Period IX	Date of Award Term to one year thereafter
Contract Period X	Date of Award Term to one year thereafter

Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and the Government's rights and obligations with respect to the order to the same extent as if the order were completed during the contract's effective period. The base period is subject to four, one-year option period extensions. Delivery orders or task orders will not be issued prior to the availability of appropriated funds from which expenditures there under may be made.

**F.3 ORDERING PROCEDURES**

A. As required, the Contracting Officer will issue a modification to the contract providing funding for the task or delivery order.

B. Services to be furnished under this contract shall be ordered by the issuance of a task or delivery order (Sent to the Contractor via electronic mail/fax from the Contracting Officer (CO)).

C. All orders issued hereunder are subject to the terms and conditions of this contract. The Contract shall govern in the event of conflict with any task or delivery order.

D. An order shall be "issued" for purposes of the contract, when it is either deposited in the U.S. Postal Service mail or otherwise furnished to the contractor in conformance with the schedule.

E. Orders issued will be at the fixed unit prices awarded for CLIN 0001A through CLIN 0005A and if option(s) is/are exercised CLIN 0001B through 0005B and CLIN 0001C through 0005C and CLIN 0001D through 0005D and CLIN 0001E through 0005E and if award term periods are awarded and exercised CLIN 0001F through 0005F and CLIN 0001G through 0005G and CLIN 0001H through 0005H and CLIN 0001J through 0005J and CLIN 0001K through 0005K and within the delivery times specified.

**SECTION G - CONTRACT ADMINISTRATION DATA****G.1 CONTRACT ADMINISTRATION**

Notwithstanding the Contractor's responsibility for total management during the performance of the contract, the administration of the contract will require maximum coordination between the USPTO and the Contractor. The following individuals will be the USPTO points of contact during the performance of the contract.

(a) Contracting Officer's Technical Representative

A Contracting Officer's Technical Representative (COTR) will be designated on authority of the Contracting Officer to monitor all technical aspects and assist in administering the contract. The types of actions within the purview of the COTR's authority are to assure that the Contractor performs the technical requirements of the contract; to perform or cause to be performed inspections necessary in connection with performance of the contract; to maintain both written and oral communications with the Contractor concerning the aspects of the contract within his/her purview; to issue written interpretations of technical requirements of Government drawings, designs and specifications; to monitor the Contractor's performance under the contract and notify the Contractor and Contracting Officer of any deficiencies observed; and to coordinate Government-Furnished Property or Data availability and provide for site entry of Contractor personnel if required. A letter of designation will be issued to the COTR with a copy supplied to the Contractor, stating the responsibilities and limitations of the COTR. This letter will clarify to all parties to the contract the responsibilities of the COTR. At no time may the scope of work, price, delivery dates, or other mutually agreed upon terms or provisions of the contract be changed without being executed in writing by the Contracting Officer authorizing such changes.

(b) Contracting Officer

All contract administration will be effected by the Contracting Officer, address as shown on the face page of the contract. Communications pertaining to contract administration matters will be addressed to the Contracting Officer. No changes in or deviation from the scope of work shall be effected without a Supplemental Agreement executed by the Contracting Officer authorizing such changes.

**G.2 CONTRACTING OFFICER'S AUTHORITY**

The Contracting Officer is the only person authorized to make or approve any changes in any of the requirements of the contract and notwithstanding any provisions contained elsewhere in the contract, the said authority remains solely in the Contracting Officer. In the event the Contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any increase in costs incurred as a result thereof.

**G.3 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR) -- TECHNICAL DIRECTION**

(a) The Contracting Officer hereby designates the individual named below as the Contracting Officer's Technical Representative.

NAME: (to be designated at contract award)  
ADDRESS: U.S. Patent and Trademark Office  
(to be designated at contract award)  
PHONE NO: (to be designated at contract award)

The COTR may be changed at any time by the Government without prior notice to the Contractor but notification of the change, including the name and address of the successor COTR, will be promptly provided to the Contractor by the Contracting Officer in writing.

(b) The responsibilities and limitations of the COTR are as follows:

- (1) The COTR is responsible for the technical aspects of the project and technical liaison with the Contractor. The COTR is also responsible for the final inspection and acceptance of all reports, and such other responsibilities as may be specified in the contract.
- (2) The COTR is not authorized to make any commitments or otherwise obligate the Government or authorize any changes, which affect the contract price, terms or conditions. Any Contractor request for changes shall be referred to the Contracting Officer directly or through the COTR. No such changes shall be made without the expressed prior authorization of the Contracting Officer. The COTR may designate assistant COTR(s) to act for him by naming such assistant in writing and transmitting a copy of such designation through the Contracting Officer to the Contractor.

#### **G.4 INVOICING AND PAYMENT INSTRUCTIONS**

(a) For classification work completed by the contractor and inspected and accepted by the USPTO, invoices shall be submitted in an original and two (2) copies to the following address:

**U.S. Patent and Trademark Office  
Office of Finance, Mail Stop 17  
P.O. Box 1450  
Alexandria, VA 22313-1450**

(b) A separate invoice shall be provided for each executed delivery order. To constitute a proper invoice, the invoice must include the following information or attached documentation:

- (1) Name of Contractor, invoice number and invoice date;
- (2) Contract number and delivery order number (one per invoice);
- (3) Description, price, and quantity of each CLIN ordered under that specific delivery order;
- (4) A copy of the Configuration Sheet provided with the original or modified delivery order;
- (5) Payment terms;
- (6) Name, title, phone number, and complete mailing address of responsible official to whom payment is to be sent.
- (7) Production or other reports as required by the Government.

(c) If items are rejected for failure to conform to the contract requirements, the provisions in the Prompt Payment clause (FAR 52.232-25--see Section I) will apply to the new acceptance of replacement items.

#### **G.5 INVOICING/PAYMENT FREQUENCY**

The Contractor shall submit invoices on a monthly basis for work completed during the previous month.

#### **G.6 ELECTRONIC PAYMENT INFORMATION**

(a) The information required by the clause 52.232-38, Submission of Electronic Funds Transfer Information with Offer, shall be forwarded by the Contractor to the below designated office no later than seven (7) days after contract award:

**U.S. Patent and Trademark Office  
Office of Finance, Mail Stop 17  
P.O. Box 1450  
Alexandria, VA 22313-1450**

(b) If requested, a form will be provided to the successful contractor for this purpose. In the event payment is assigned to a bank, thrift, or other financing institution pursuant to the clause FAR 52.232-23, Assignment of Claims, the Contractor should forward the form to the assignee for completion.

**G.7 52.245-2 Government Property (Fixed-Price Contracts)**

## Government Property (Fixed-Price Contracts) (May 2004)

## (a) Government-furnished property.

(1) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications together with any related data and information that the Contractor may request and is reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

(2) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use (except for property furnished "as is") will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(3) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt of it, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either repair, modify, return, or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.

(4) If Government-furnished property is not delivered to the Contractor by the required time, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

## (b) Changes in Government-furnished property.

(1) The Contracting Officer may, by written notice, (i) decrease the Government-furnished property provided or to be provided under this contract, or (ii) substitute other Government-furnished property for the property to be provided by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by such notice.

(2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make the property available for performing this contract and there is any-

(i) Decrease or substitution in this property pursuant to paragraph (b)(1) of this clause; or

(ii) Withdrawal of authority to use this property, if provided under any other contract or lease.

## (c) Title in Government property.

(1) The Government shall retain title to all Government-furnished property.

(2) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. However, special tooling accountable to this contract is subject to the provisions of the Special Tooling clause and is not subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(3) Title to each item of facilities and special test equipment acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(4) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract-

(i) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and

(ii) Title to all other material shall pass to and vest in the Government upon-

(A) Issuance of the material for use in contract performance;

(B) Commencement of processing of the material or its use in contract performance; or

(C) Reimbursement of the cost of the material by the Government, whichever occurs first.

(d) Use of Government property. The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.

## (e) Property administration.

(1) The Contractor shall be responsible and accountable for all Government property provided under this contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5, as in effect on the date of this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(4) The Contractor represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.

(f) Access. The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) Risk of loss. Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.

(h) Equitable adjustment. When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for-

(1) Any delay in delivery of Government-furnished property;

(2) Delivery of Government-furnished property in a condition not suitable for its intended use;

(3) A decrease in or substitution of Government-furnished property; or

(4) Failure to repair or replace Government property for which the Government is responsible.

(i) Government property disposal. Except as provided in paragraphs (i)(1)(i), (i)(2), and (i)(8)(i) of this clause, the Contractor shall not dispose of Government property until authorized to do so by the Plant Clearance Officer.

(1) Scrap (to which the Government has obtained title under paragraph (c) of this clause).-

(i) Contractor with an approved scrap procedure.-

(A) The Contractor may dispose of scrap resulting from production or testing under this contract without Government approval. However, if the scrap requires demilitarization or is sensitive property, the Contractor shall submit the scrap on an inventory disposal schedule.

(B) For scrap from other than production or testing the Contractor may prepare scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures), except that inventory disposal schedules shall be submitted for scrap aircraft or aircraft parts and scrap that-

(1) Requires demilitarization;

(2) Is a classified item;

(3) Is generated from classified items;

(4) Contains hazardous materials or hazardous wastes;

(5) Contains precious metals; or

(6) Is dangerous to the public health, safety, or welfare.

(ii) Contractor without an approved scrap procedure. The Contractor shall submit an inventory disposal schedule for all scrap.

(2) Pre-disposal requirements. When the Contractor determines that a property item acquired or produced by the Contractor, to which the Government has obtained title under paragraph (c) of this clause, is no longer needed for performance of this contract, the Contractor, in the following order of priority:

(i) May purchase the property at the acquisition cost.

(ii) Shall make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices).

(iii) Shall list, on Standard Form 1428, Inventory Disposal Schedule, property that was not purchased under paragraph (i)(2)(i) of this clause, could not be returned to a supplier, or could not be used in the performance of other Government contracts.

(3) Inventory disposal schedules.-

(i) The Contractor shall use Standard Form 1428, Inventory Disposal Schedule, to identify-

- (A) Government-furnished property that is no longer required for performance of this contract, provided the terms of another Government contract do not require the Government to furnish that property for performance of that contract; and
- (B) Property acquired or produced by the Contractor, to which the Government has obtained title under paragraph (c) of this clause, that is no longer required for performance of that contract.
- (ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government.
- (iii) Unless the Plant Clearance Officer has agreed otherwise, or the contract requires electronic submission of inventory disposal schedules, the Contractor shall prepare separate inventory disposal schedules for-
- (A) Special test equipment with commercial components;
- (B) Special test equipment without commercial components;
- (C) Printing equipment;
- (D) Computers, components thereof, peripheral equipment, and related equipment;
- (E) Precious Metals;
- (F) Non-nuclear hazardous materials or hazardous wastes; or
- (G) Nuclear materials or nuclear wastes.
- (iv) Property with the same description, condition code, and reporting location may be grouped in a single line item. The Contractor shall describe special test equipment in sufficient detail to permit an understanding of the special test equipment's intended use.
- (4) Submission requirements. The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than-
- (i) Thirty days following the Contractor's determination that a Government property item is no longer required for performance of the contract;
- (ii) Sixty days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or
- (iii) One hundred twenty days, or such longer period as may be approved by the Plant Clearance Officer, following contract termination in whole or in part.
- (5) Corrections. The Plant Clearance Officer may require the Contractor to correct an inventory disposal schedule or may reject a schedule if the property identified on the schedule is not accountable under this contract or is not in the quantity or condition indicated.
- (6) Post submission adjustments. The Contractor shall provide the Plant Clearance Officer at least 10 working days advance written notice of its intent to remove a property item from an approved inventory disposal schedule. Unless the Plant Clearance Officer objects to the intended schedule adjustment within the notice period, the Contractor may make the adjustment upon expiration of the notice period.
- (7) Storage.-
- (i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to provide disposal instructions within 120 days following acceptance of an inventory disposal schedule might entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day.
- (ii) The Contractor shall obtain the Plant Clearance Officer's approval to remove Government property from the premises at which the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage facility shall be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability under this contract for such property.
- (8) Disposition instructions.-
- (i) If the Government does not provide disposition instructions to the Contractor within 45 days following acceptance of a scrap list, the Contractor may dispose of the listed scrap in accordance with the Contractor's approved scrap procedures.
- (ii) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Government property as directed by the Plant Clearance Officer. The Contractor shall remove and destroy any markings identifying the property as Government property prior to disposing of the property.
- (iii) The Contracting Officer may require the Contractor to demilitarize the property prior to shipment or disposal. Any equitable adjustment incident to the Contracting Officer's direction to demilitarize Government property shall be made in accordance with paragraph (h) of this clause.
- (9) Disposal proceeds. The Contractor shall credit the net proceeds from the disposal of Government property to the price or cost of work covered by this contract or to the Government as the Contracting Officer directs.

(10) Subcontractor inventory disposal schedules. The Contractor shall require a subcontractor that is using property accountable under this contract at a subcontractor-managed site to submit inventory disposal schedules to the Contractor in sufficient time for the Contractor to comply with the requirements of paragraph (i)(4) of this clause.

(j) Abandonment of Government property.-

(1) The Government will not abandon sensitive Government property without the Contractor's written consent.

(2) The Government, upon notice to the Contractor, may abandon any non-sensitive Government property in place at which time all obligations of the Government regarding such abandoned property shall cease.

(3) The Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances; however, if Government-furnished property is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) Communications. All communications under this clause shall be in writing.

(l) Overseas contracts. If this contract is to be performed outside of the United States and its outlying areas, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.



## SECTION H - SPECIAL CONTRACT REQUIREMENTS

### H.1 ADVERTISING OF AWARD

The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Federal Government, or is considered by the Government to be superior to other products or services. Advertisements, press releases and publicity of a contract by a supplier shall not be made without the prior express written permission of the Contracting Officer.

### H.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

(a) The USPTO may extend the term of the contract by unilateral modification to the contract at any time prior to its expiration provided that the USPTO shall give the Contractor a preliminary written notice of its intent at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the USPTO exercises this option or awards an award term, the extended contract shall be considered to include this option provision.

(c) The total duration of the contract, including the exercise of any options and award terms under this clause, shall not exceed 10 years from the effective date of this contract.

### H.3 FEDERAL HOLIDAYS

For information purposes, the following days are observed as Federal holidays:

- New Year's Day
- Martin Luther King, Jr. Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Christmas Day
- Inauguration Day
- Any other day designated by Federal Statute, Executive Order, or Presidential proclamation.

Should the contractor need to conduct any business on USPTO premises, the contractor shall comply with the aforementioned Government holidays and any other day designated by Federal Statute, Executive Order, or Presidential proclamation, therefore, the Government offices are closed to the Contractor's staff on the day(s) these holidays are observed. In addition, on-site work shall not be permitted when Federal employees are released from work early due to inclement weather conditions or emergencies or when Federal offices are closed due to inclement weather conditions or emergencies (status available at [<http://www.opm.gov/status/>](http://www.opm.gov/status/)).

#### H.4 NO WAIVER OF DELIVERY SCHEDULE

- (a) None of the following shall be regarded as an extension, waiver, or abandonment of the delivery schedule or a waiver of the USPTO's right to terminate for default: (i) Delay by the USPTO in terminating for default and (ii) Acceptance of delinquent deliveries.
- (b) Any assistance rendered to the Contractor on the contract or acceptance by the USPTO of delinquent goods or services hereunder will be solely for the purpose of mitigating damages and is not to be construed as an intention on the part of the USPTO to condone any delinquency, or as a waiver of any rights the USPTO may have under subject contract.

#### H.5 ORGANIZATIONAL CONFLICT OF INTEREST

- (a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the Contractor has disclosed all such relevant information.
- (b) The Contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Contractor will make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions, which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict.
- (c) Remedies - The Contracting Officer may terminate the contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Officer, the USPTO may terminate the contract for default, debar the Contractor from USPTO contracting, or pursue such other remedies as may be permitted by law or the contract.
- (d) The Contractor further agrees to insert provisions, which shall conform substantially to the language of this clause, including this paragraph (d), in any subcontract or consultant agreement hereunder.

#### H.6 KEY PERSONNEL

- a. The Contractor shall assign to this contract the following key personnel. **These key personnel shall be dedicated to the resulting contract on a full time basis:**

Project Manager  
Quality Control Official

- b. During the first ninety (90) days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within fifteen (15) calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least fifteen (15) days prior to making any permanent substitutions.
- c. The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within fifteen (15) calendar days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes of key personnel.

**H.7 SOFTWARE INTEROPERABILITY**

At this time, interoperation between contractor and government software is not anticipated.

**H.8 NONDISCLOSURE OF PATENT INFORMATION**

All patent data furnished by the Government to the Contractor for the necessary performance of the contract shall be and remain the sole property of the Government. The Contractor agrees not to assert any rights, or to establish any claim under the design, patent, trademark, or copyright laws, or to publish or reproduce such matter in whole or in part in any manner or form except as provided under this agreement.

**H.9 SECRECY AND USAGE OF PATENT INFORMATION**

Work under this contract does not affect the national security. However, patent applications are required by law (35 U.S.C. 122) to be kept in confidence. Information contained in any patent application file(s) is restricted to authorized Contractor personnel on a need-to-access basis.

The Contractor acquires no right or privilege to use or disclose any information contained in any patent application file (in any form whatsoever) except to perform the work under the contract. Further, the Contractor shall not copyright or make any use or disclosure whatsoever of any patent information contained in any application or related copy or data furnished the Contractor by the Government or obtained there from except performing the requirements of this contract.

Security requirements of patent application file data maintained in a computer-accessible medium are an extension of the security requirements for the hard copy or the patent application folders. All processing, storage or transmission of patent application file data by means of electronic communications systems is prohibited unless use of such systems is approved by the USPTO.

All personnel having access to patent application files or data or information concerning the same, must take the following at or affirmation, signed in writing:

"I do swear or affirm that I will preserve the applications for patents in secrecy, that I will not divulge any information concerning the same to unauthorized persons while employed in work under this contract or at any time thereafter; and that I take this obligation freely, and without mental reservation or purpose of evasion."

Each employee's signed oath, or affirmation, shall be retained in the Contractor's file, subject to inspection by authorized Government representatives.

Without advance notice, the Government shall have the right to inspect the Contractor's premises, records, and work in process pertaining to the secrecy of patent information.

**H.10 HOLD AND SAVE THE GOVERNMENT HARMLESS FROM LIABILITY**

The Contractor shall hold and save the Government, its officers, agents, and employees, harmless from liability of any nature or kind, including costs and expenses, for, or on account of infringement of any patent or copyright or any other unauthorized disclosure or use of any confidential secret, or proprietary data, process, product or invention, whether or not patentable, in the performance of this contract, including their disclosure or use by the Government consistent with rights in, or intent of, the contract. Where applicable, this shall include full indemnification of all costs and expenses.

**H.11 COMPLIANCE WITH LAWS**

The Contractor shall comply with all applicable laws, rules and regulations having the force of law that deal with or relate to performance hereunder or the employment by the Contractor of the employees necessary for such performance. The Contractor shall procure such permits, licenses, and other required authorizations from the United States and from state and local authorities, as may be necessary in connection with beginning or carrying on to completion of the contract work, and shall at all times comply with all United States, State and Local Laws in any way affecting the contract work.

**H.12 SUPERVISION OF CONTRACTOR'S EMPLOYEES**

(a) Personnel assigned to render services under this contract shall at all times be employees of the Contractor or its subcontractor(s) and under the direction and control of the Contractor. Notwithstanding any other provisions of this contract, the Contractor shall at all times be responsible for the supervision of its employees in the performance of the services required hereunder.

(b) Contractor personnel shall not at any time during the contract period be employees of the U.S. Government.

**H.13 ACCESS TO GOVERNMENT FACILITIES**

During the life of the contract, the rights of ingress and egress to and from the Government facility for Contractor personnel shall be made available as required. Systems provided to assist in performance of the contract may be taken off line for routine maintenance between the hours of 10:00 pm and 5:30 am. Additional scheduled maintenance may occur over the weekends. During all operations on Government premises, Contractor personnel shall comply with the rules and regulations governing the conduct of personnel and the operation of the facility. The Government reserves the right to require Contractor personnel to sign in upon ingress and sign out upon egress to and from the Government facility.

**H.14 DUPLICATION AND DISCLOSURE OF CONFIDENTIAL DATA**

Duplication or disclosure of confidential data provided by the USPTO or to which the Contractor will have access as a result of this contract is prohibited. It is understood that throughout performance of the contract the Contractor may have access to confidential data that is the sole property of the USPTO, as well as access to proprietary data that is the sole property of other than the contracting parties. The Contractor hereby agrees to maintain the confidentiality of all such data to which access may be obtained throughout contract performance whether title thereto vests in the USPTO or otherwise. The Contractor hereby agrees not to disclose said data, any interpretations thereof or data derivative there from, to unauthorized parties in contravention of these provisions without prior written approval of the CO or the party in which title thereto is wholly vested. This clause also applies to any subcontractors and/or consultants used by the Contractor.

**H.15 GOVERNMENT IDENTIFICATION/SUITABILITY INVESTIGATION REQUIREMENTS FOR CONTRACTOR EMPLOYEES**

(a) The Contractor shall obtain from the USPTO Office of Security Contractor identification passes which must be displayed by each Contractor employee while on USPTO premises. USPTO security procedures require that an investigation be conducted on each Contractor employee before providing the passes.

(1) Investigative Processing -

The COTR, in conjunction with the contractor's Project Manager, is responsible for Initiating and ensuring the accuracy and completeness of the investigative package for each contract employee. Once the packages have been reviewed, packages will then be forwarded to the USPTO Security Office for further processing, e.g., fingerprinting, etc. Investigative paperwork must be submitted to and accepted by the USPTO Security Office within 14 days after the Subject's performance on the contract. During the investigative processing, each contract employee will be initially provided with a temporary badge good for 2 weeks and which each Contractor employee shall display while on USPTO premises.

Processing Requirements -

The investigative package must contain the following investigative forms: SF-85, Questionnaire for Non Sensitive Positions; FD 258, Fingerprint Chart; and the OF 306, Declaration for Federal Employment.

Non U.S. citizens to be employed under this contract must:

- i. Have official legal status in the United States; and
- ii. Have continuously resided in the United States for the last 2 years

If the USPTO Security Office receives disqualifying information on a contract employee, the Contractor, upon notice, will immediately remove the employee from their duties under this contract. Contract employees may be barred from working on the premises of a facility for any of the following:

- a. Falsification of information entered on the investigative forms.
- b. Conviction of a felony of a crime of violence or of a misdemeanor involving moral turpitude.
- c. Improper conduct once performing on the contract, including criminal, infamous, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government regardless of whether the conduct directly relates to the contract.
- d. Any behavior judged to pose a potential threat to USPTO personnel or property.

Failure to comply with these requirements may result in the cancellation of this contract.

- (b) All investigative processing request information and requests for employee passes shall be forwarded to the COTR. The COTR will make recommendations and forward the pass requests to USPTO's Security Office.
- (c) All background investigation reports will be processed by the USPTO Security Office upon receipt. Those employees whose backgrounds do not meet DOC and USPTO suitability requirements will not be allowed to work in USPTO facilities. The Contractor will be notified of the results of any additional security investigations. USPTO reserves the right to deny facility access to those personnel who receive unfavorable security reports. All personnel employed by the Contractor in the performance of this contract, or any representative of the Contractor entering USPTO/DOC facilities, shall abide by all security regulations of USPTO/DOC and shall be subject to security checks as may be deemed necessary. The Government reserves the right to direct the Contractor to remove from performance under this contract, any employee for misconduct or security reasons. Such action shall not excuse the Contractor from the responsible performance of all tasks under the contract.
- (d) The Security Manual and additional memos from the USPTO Director of Security, as well as USPTO security procedures shall apply to this contract and the Contractor's employees assigned under this contract. Copies of these documents may be obtained from the COTR.
- (e) This clause also applies to any subcontractors or consultants used by the Contractor.

#### **H.16 IT SECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION TECHNOLOGY RESOURCES**

- (a) This clause is applicable to all or any part of the contract that includes information technology resources or services in which the Contractor must have physical or electronic access to USPTO's sensitive information contained in unclassified systems that directly support the mission of the Agency. This includes information technology, hardware, software, and the management, operation, maintenance, programming, and system administration of computer systems, networks, and telecommunications systems.
- (b) Within 30 days of contract award, the Contractor shall certify in writing to the COTR that its employees, in performance of the contract, have completed:
  - 1) USPTO IT Security User Awareness Training
  - 2) Annual IT Security training in USPTO IT Security policies, procedures, computer ethics, and best practices (when available).

The contractor may use web-based training as available from USPTO to meet these requirements. For contracts extending beyond one year, the Contractor shall certify in writing to the COTR within the first 30 days of each contract or option year subsequent to the award year that its employees, in performance of the contract, have completed annual IT Security User Awareness training in accordance with USPTO requirements.

- (c) All Contractor employees are expected to comply with USPTO's IT Security policies.

- (d) The Contractor shall incorporate the substance of this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

#### **H.17 NOTICE TO THE GOVERNMENT OF DELAYS**

In the event the Contractor encounters difficulty in meeting performance requirements, or when it anticipates difficulty in complying with the contract delivery schedule or date, or whenever the Contractor has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately notify the Contracting Officer and the COTR, in writing, giving pertinent details, provided, however, that this data shall be informational only in character and that this provision shall not be construed as a waiver by the Government of any delivery schedule or date or of any rights or remedies provided by law or under this contract.

#### **H.18 GOVERNMENT FURNISHED DATA**

The Government shall deliver to the Contractor, as may be requested, Government-Furnished Data (GFD) during the performance of this contract. GFD will be delivered to the Contractor as specified in each task order.

Title to GFD shall remain in the Government, and the Contractor shall use the GFD only in connection with this contract.

Upon completion or termination of this contract, the Contractor shall return to the Government all GFD.

#### **H.19 CAR 1352.239-73- SECURITY REQUIREMENTS FOR INFORMATION TECHNOLOGY RESOURCES**

(a) This clause is applicable to all contracts that include information technology resources or services in which the Contractor must have physical or electronic access to USPTO's sensitive or classified information, which is contained in systems that directly support the mission of the Agency. For purposes of this clause the term "Sensitive" is defined by the guidance set forth in:

- (1) The DOC IT Security Program Policy and Minimum Implementation Standards (<http://www.ossec.doc.gov/cio/itmhweb/itmhweb1.html>);
- (2) The Office of Management and Budget (OMB) Circular A-130, Appendix III, Security of Federal Automated Information Resources, (<http://csrc.nist.gov/secplcy/a130app3.txt>) which states that there is a "presumption that all [general support systems] contain some sensitive information."; and
- (3) The Computer Security Act of 1987 (P.L. 100-235) (<http://www.epic.org/crypto/csa/csa.html>), including the following definition of the term sensitive information "... any information, the loss, misuse, or unauthorized access, to or modification of which could adversely affect the national interest or the, conduct of federal programs, or the privacy to which individuals are entitled under section 552 a of title 5, Unites States Code (The Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy."

For purposes of this clause, the term "Classified" is defined by the guidance set forth in:

- (1) The DOC IT Security Program Policy and Minimum Implementation Standards, Section 3.3.1.4 (<http://www.ossec.doc.gov/cio/itmhweb/itmhweb1.html>).
- (2) The DOC Security Manual, Chapter 18 (<http://www.ossec.doc.gov/osy/>).
- (3) Executive Order 12958, as amended, Classified National Security Information. Classified or national security information is information that has been specifically authorized to be protected from unauthorized disclosure in the interest of national defense or foreign policy under an Executive Order or Act of Congress.

Information technology resources include, but are not limited to, hardware, application software, system software, and information (data). Information technology services include, but are not limited to, the management, operation (including input, processing, transmission, and output), maintenance, programming, and system administration of computer systems, networks, and telecommunications systems. The Contractor shall be responsible for implementing sufficient Information Technology security, to reasonably prevent the compromise of USPTO IT resources for all of the contractor's systems that are interconnected with a USPTO network or USPTO systems that are operated by the Contractor.

(b) All Contractor personnel performing under this contract and Contractor equipment used to process or store USPTO data, or to connect to USPTO networks, must comply with the requirements contained in the USPTO IT Security Handbook.

(c) For all Contractor-owned systems for which performance of the contract requires interconnection with a USPTO network or that USPTO data be stored or processed on them, the Contractor Shall:

(1) Provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract. The plan shall describe those parts of the contract to which this clause applies. The Contractor's IT Security Plan shall comply with federal laws that include, but are not limited to, the Computer Security Act of 1987 (40 U.S.C. 1441 et seq.) and the Federal Information Security Management Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2946-2961 (2002); Pub. L. No. 107-296, 116 Stat. 2135, 2259-2273 (2002). 38 WEEKLY COMP. PRES. DOC. 51, 2174 (Dec. 23, 2002) (providing statement by President George W. Bush regarding Federal Information Security Management Act of 2002). The plan shall meet IT security requirements in accordance with Federal and USPTO policies and procedures that include, but are not limited to:

(a) OMB Circular A-130, Management of Federal Information Resources, Appendix III, Security of Federal Automated Information Resources

(<http://csrc.nist.gov/secplcy/a130app3.txt>);

(b) National Institute of Standards and Technology Special Publication 800-18, Guide for Developing Security Plans for Information Technology Systems (<http://csrc.nist.gov/publications/nistpubs/800-18/Planguide.PDF>) ; and

(c) DOC Procedures and Guidelines in the Information Technology Management Handbook

(<http://www.osc.doc.gov/cio/itmhwweb/itmhwweb1.html>). .

(d) National Industrial Security Program Operating Manual (NISPOM) for classified systems

(<http://www.dss.mil/isec/nispom.htm>); and

(2) Within 14 days after contract award, the contractor shall submit for USPTO approval a System Certification and Accreditation package, including the IT Security Plan and a system certification test plan, as outlined in USPTO Certification and Accreditation Technical Standard and Guideline. The Certification and Accreditation Package must be consistent with and provide further detail for the security approach contained in the offeror's proposal or sealed bid that resulted in the award of this contract and in compliance with the requirements stated in this clause. The Certification and Accreditation Package, as approved by the Contracting Officer, in consultation with the USPTO IT Security Officer, shall be incorporated as part of the contract. USPTO will use the incorporated IT Security Plan as the basis for certification and accreditation of the contractor system that will process USPTO data or connect to USPTO networks. Failure to submit and receive approval of the Certification and Accreditation Package, as outlined above may result in termination of the contract.

(d) The Contractor shall incorporate this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

## **H.20 CAR 1352.239-74 SECURITY PROCESSING REQUIREMENTS FOR CONTRACTORS/SUBCONTRACTOR PERSONNEL FOR ACCESSING USPTO AUTOMATED INFORMATION SYSTEMS**

(a) Contractor personnel requiring any access to AISs operated by the Contractor for USPTO or interconnected to a USPTO network to perform contract services shall be screened at an appropriate level in accordance with Commerce Acquisition Manual 1337.70, Security Processing Requirements for Service Contracts. USPTO shall provide screening using standard personnel screening forms, which the Contractor shall submit to the USPTO Contracting Officer's Technical Representative (COTR) based on the following guidance:

1) Contract personnel performing work designated Contract High Risk and personnel performing work designated Contract Moderate Risk in the information technology (IT) occupations and those with "global access" to an automated information AIS require a favorable pre-employment check before the start of work on the contract, regardless of the expected duration of the contract. After a favorable pre-employment check has been obtained, the Background Investigation (BI) for Contract High Risk and the Minimum Background Investigation (MBI) for Contract IT Moderate Risk positions must be initiated within three working days of the start of work.

- 2) Contract personnel performing work designated Contract Moderate Risk who are not performing IT-related contract work do not require a favorable pre-employment check prior to their employment; however, the Minimum Background Investigation (MBI) must be initiated within three working days of the subject's start of work on the contract, regardless of the expected duration of the contract.
- 3) Contract personnel performing work designated Contract Low Risk will require a National Agency Check and Inquiries (NACI) upon the subject's start of work on the contract if the expected duration of the contract exceeds 365 calendar days. The NACI must be initiated within three working days of the subject's start of work on the contract.
- 4) Contract personnel performing work designated Contract Low Risk will require a Special Agreement Check (SAC) upon the subject's start of work on the contract if the expected duration of the contract (including options) exceeds 180 calendar days but is less than 365 calendar days. The SAC must be initiated within three working days of the subject's start of work on the contract.
- 5) Contract personnel performing work on contracts requiring access to classified information must undergo investigative processing according to the Department of Defense National Industrial Security Program Operating Manual (NISPOM), (<http://www.dss.mil/isec/nispom.htm>) and be granted eligibility for access to classified information prior to beginning work on the contract.

The security forms may be obtained from USPTO Office of Security. At the option of the government, interim access to USPTO AISs may be granted pending favorable completion of a pre-employment check. Final access may be granted only on completion of an appropriate investigation based upon the risk level assigned to the contract .

(b) Within 5 days of contract award, the Contractor shall certify in writing to the COTR that its employees, in performance of the contract, have completed annual IT security awareness training in USPTO IT Security policies, procedures, computer ethics, and best practices, in accordance with the USPTO Training Policy. The COTR will inform the Contractor of any other available USPTO training resources.

(c) Within 5 days of contract award, the Contractor shall provide the COTR with signed Nondisclosure Agreements as specified in Commerce Acquisition Regulation (CAR), 1352.209-72, Restrictions Against Disclosures.

(d) The Contractor shall afford USPTO, including the Office of Inspector General, access to the Contractor's and subcontractor's facilities, installations, operations, documentation, databases, and personnel used in performance of the contract. Access shall be provided to the extent required to carry out a program of IT inspection, investigation, and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of USPTO data or to the function of computer AISs operated on behalf of USPTO, and to preserve evidence of computer crime.

(e) The Contractor shall incorporate this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

(NOTE: Low Risk contracts whose duration is less than 180 days do not ordinarily require security processing. However, even though the contract is short in duration, based on any unusual circumstances that may exist, Special Agreement Checks (SACs) may be requested, at the discretion of the Contracting Officer's Technical Representative (COTR) and/or the USPTO Security Office.)



**SECTION I – CONTRACT CLAUSES****I.1 52.252-01 CLAUSES INCORPORATED BY REFERENCE (JUN 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a solicitation provision may be accessed electronically at this address: <http://www.arnet.gov/far/>

Clause	Title	Date
52.202-01	Definitions	July 2004
52.203-03	Gratuities	April 1984
52.203-05	Covenant Against Contingent Fees	April 1984
52.203-06	Restrictions on Subcontractor Sales to the Government	(Jul 1995)
52.203-07	Anti-Kickback Procedures	July 1995
52.203-08	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	January 1997
52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity	January 1997
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	April 1991
52.203-12	Limitation On Payments To Influence Certain Federal Transactions	June 2003
52.204-07	Central Contractor Registration	October 2003
52.204-04	Printed or Copied Double-Sided on Recycled Paper.	August 2000
52.209-06	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	July 1995
52.215-02	Audit and Records--Negotiation	June 1999
52.215-08	Order of Precedence--Uniform Contract Format	October 1997
52.215-14	Integrity of Unit Prices.	October 1997
52.216-22	Indefinite Quantity ( <b>Applicable to all CLINs except CLINs 0001A-0001K and CLIN 0006</b> )	October 1995
52.217-08	Option to Extend Services	November 1999
52.217-09	Option To Extend The Term Of The Contract	March 2000
52.219-08	Utilization of Small Business Concerns	May 2004
52.219-09	Small Business Subcontracting Plan	January 2002
52.222-3	Convict Labor	(June 2003)
52.222-21	Prohibition of Segregated Facilities	February 1999
52.222-26	Equal Opportunity	April 2002
52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	December 2001
52.222-36	Affirmative Action For Workers with Disabilities	June 1998
52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	December 2001
52.223-06	Drug Free Workplace	May 2001
52.223-14	Toxic Chemical Release Reporting	August 2003
52.224-1	Privacy Act Notification	April 1984
52.224-2	Privacy Act	April 1984
52.225-13	Restrictions on Certain Foreign Purchases	December 2003
52.227-01	Authorization and Consent	July 1995
52.227-02	Notice and Assistance Regarding Patent and Copyright Infringement.	August 1996
52.227-03	Patent Indemnity	April 1984
52.227-14	Rights in Data- General	June 1987
52.229-3	Federal, State and Local Taxes	(Apr 2003)
52.232-1	Payments	April 1984
52.232-8	Discounts for Prompt Payment	(Feb 2002)
52.232-17	Interest	June 1996
52.232-18	Availability of Funds	April 1984
52.232-23	Assignment Of Claims	January 1986

Clause	Title	Date
52.232-25	Prompt Payment	October 2003
52.232-33	Payment by Electronic Funds Transfer--Central Contractor Registration	October 2003
52.233-01	Disputes	July 2002
52.233-3	Protest after Award	Aug 1996
52.233-4	Applicable Law for Breach of Contract Claim	Oct 2004
52.237-03	Continuity of Services	January 1991
52.242-13	Bankruptcy	July 1995
52.243-01	Changes—Fixed price	August 1987
52.245-04	Government Furnished Property	June 2003
52.249-02	Termination For Convenience Of The Government (Fixed-Price)	May 2004
52.249-08	Termination For Default (Fixed Price Supply or Service)	April 1984
52.249-14	Excusable Delays	April 1984
52.253-01	Computer Generated Forms	January 1991

**I.2 52.216-18 ORDERING OCTOBER 1995 (Applicable to all CLINs except item 0006)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued during the performance period of the contract.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

**I.3 52.216-19 ORDER LIMITATIONS OCTOBER 1995 (Applicable to all CLINs except item 0006)**

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount less than the minimum stated per CLIN (See Section B) then the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum order. The Contractor is not obligated to honor:

(1) Any order for a single item in excess of the maximum stated per CLIN (See Section B);

(2) Any order for a combination of items in excess of total award value; or

(3) A series of orders from the same ordering office within 1 day that together call for quantities exceeding the limitation in subparagraph (1) or (2) above.

**I.4 52.216-21 REQUIREMENTS OCTOBER 1995 (Applicable only to CLINs 0001A through 0001K)**

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after twelve (12) months after the completion of the period of performance under the contract.

**I.5 52.232-28 INVITATION TO PROPOSE PERFORMANCE-BASED PAYMENTS MARCH 2000  
(Applicable only to CLIN 0006)**

(a) The Government invites the offeror to propose terms under which the Government will make performance-based contract financing payments during contract performance. The Government will consider performance-based payment financing terms proposed by the offeror in the evaluation of the offeror's proposal. The Contracting Officer will incorporate the financing terms of the successful offeror and the FAR clause, Performance-Based Payments, at FAR 52.232-32, in any resulting contract.

(b) In the event of any conflict between the terms proposed by the offeror and the terms in the clause at FAR 52.232-32, Performance-Based Payments, the terms of the clause at FAR 52.232-32 shall govern.

(c) The Contracting Officer will not accept the offeror's proposed performance-based payment financing if the financing does not conform to the following limitations:

(1) The Government will make delivery payments only for supplies delivered and accepted, or services rendered and accepted in accordance with payment terms of this contract.

(2) The terms and conditions of the performance-based payments must--

(i) Comply with FAR 32.1004;

(ii) Be reasonable and consistent with all other technical and cost information included in the offeror's proposal; and

(iii) Their total shall not exceed 90 percent of the contract price if on a whole contract basis, or 90 percent of the delivery item price if on a delivery item basis.

(3) The terms and conditions of the performance-based financing must be in the best interests of the Government.

(d) The offeror's proposal of performance-based payment financing shall include the following:

(1) The proposed contractual language describing the performance-based payments (see FAR 32.1004 for appropriate criteria for establishing performance bases and performance-based finance payment amounts).

(2) A listing of--

(i) The projected performance-based payment dates and the projected payment amounts; and

(ii) The projected delivery date and the projected payment amount.

(3) Information addressing the Contractor's investment in the contract.

(e) Evaluation of the offeror's proposed prices and financing terms will include whether the offeror's proposed performance-based payment events and payment amounts are reasonable and consistent with all other terms and conditions of the offeror's proposal.

**I.6 52.244-06 SUBCONTRACTS FOR COMMERCIAL ITEMS****DECEMBER 2004**

(a) Definitions. As used in this clause--

"Commercial item" has the meaning contained in Federal Acquisition Regulation 2.101, Definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or non-developmental items as components of items to be supplied under this contract.

(c)(1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212(a));

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201). Flow down as required in accordance with paragraph (g) of FAR clause 52.222-39).

(vi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Apr 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631) (flow down required in accordance with paragraph (d) of FAR clause 52.247-64).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)

**SECTION J - LIST OF ATTACHMENTS**

Attachment A – Performance Requirements Summary  
Attachment B – Past Performance Questionnaire  
Attachment C – Personnel Resume Worksheet  
Attachment D – Overview of the Quality Checking Process

Sample 1 - Advance Classification Orders (USPC)  
Sample 2 - Subclass Data File (SDF)  
Sample 3 - IPC Valid Symbols File

**SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS****52.204–8 Annual Representations and Certifications.****ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2005)**

(a)(1) If the clause at 52.204–7, Central Contractor Registration, is included in this solicitation, paragraph (b) of this provision applies.

(2) If the clause at 52.204–7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (b) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

☐ (i) Paragraph (b) applies.

☐ (ii) Paragraph (b) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(b) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [offeror to insert changes, identifying change by clause number, title, date].

These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date	Change

Change

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

(End of Provision)

**SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS****L.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (JUN 1988)**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The Offeror is cautioned that the listed provisions may include blocks that must be completed by the Offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the Offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address: <http://www.arnet.gov/far/>

Clause	Title	Date
52.214-34	Submission Of Offers In The English Language	April 1991
52.214-35	Submission Of Offers In U.S. Currency	April 1991
52.215-01	Instructions to Offerors—Competitive Acquisition	January 2004
52.232-38	Submission of Electronic Funds Transfer Information with Offer	May 1999

**L.2 INVITE AND RECEIVE OFFEROR SUBMISSIONS**

Offerors who wish to respond to the USPTO's needs as outlined in the RFP shall submit all documents as defined in Section L.3 (Proposal Requirements). Offerors shall submit statutorily required Certifications and Representations for review by the USPTO (See Section K).

All incomplete and/or non-compliant proposals may be removed from consideration and the Offeror notified. Offerors who fail to submit the requested information as detailed in Section L of the RFP by the proposal due date will not be considered for further evaluation.

**L.3 PROPOSAL REQUIREMENTS**

Offerors are required to submit an original and three (3) copies of the following in response to the solicitation:

- \*Volume I
  - A. Technical Approach
    - (1) Ability to Perform Breadth of Services
    - (2) Ability to achieve the acceptable quality levels
    - (3) Proposed Start-Up plan
    - (4) Key Personnel Resumes
    - (5) Future Price Savings
  - B. Management Plan
    - (1) Previous company experience
    - (2) Specific Management Plan for the contract.
    - (3) Past Performance

\* Volume I shall not exceed 50 total pages exclusive of Past Performance Questionnaires (Attachment "B" to this RFP) and Letters of Commitment for any proposed Key Personnel (see Attachment "C" to this RFP)

- Volume II
  - C. Price Proposal
  - D. A completed Section K (Certifications and Representations)



**L.3.1 Evaluation Factor A: Technical Approach**

The USPTO Project Team will evaluate the feasibility, credibility, relevance, quality, responsiveness and completeness of the Offeror's technical approach to providing the services required under Section C of this RFP. The Offeror is required to clearly indicate which of its responses to this evaluation factor address each of the items listed below.

1. The offeror will demonstrate its ability to Perform Breadth of Services required in Section C of the RFP and its approach to all elements of performing Pre-Grant Publication Classification Services as detailed in Section C of this RFP. The offeror shall identify and completely explain the technical resources and expertise necessary to provide the services required under Section C of this RFP. If Offeror is proposing an automated solution, Offeror may be required to successfully provide a demonstration of its solution.

2. The offeror shall demonstrate its ability to achieve the acceptable quality levels per Contract Line Item Number (CLIN) that are provided in Section C of this RFP and in Attachment A, Performance Requirements Summary (PRS), to this RFP. Under this sub-factor, the Offeror is required to propose a Quality Control Plan. The USPTO will assess the offeror's ability to provide and manage a Quality Control Program that will ensure performance of all CLINs at or above the stated Acceptable Quality Levels. The evaluation will consider the relevance, credibility, responsiveness, and completeness of the Offeror's proposed Quality Control Program.

The Offeror's proposed Quality Control Plan will be incorporated into the resulting contract.

The Offeror's proposed Quality Control Program shall, at a minimum, address the following.

(a) Sampling and measuring for every CLIN performed or delivered under this contract.

(b) Where, when, and by whom contractor process controls and inspections will be performed to check for errors and timeliness. Contractor shall set forth the resources that will be assigned to this program (e.g. number of people, total labor hours etc.).

(c) Appointment of an official who shall be responsible for the operation of the quality control system/department and for investigating and ascertaining the causes of deficiencies.

Failure to maintain the Quality Control Program in accordance with the plan submitted and approved by the Government may result in the Government's termination of the contract for default.

Upon USPTO request, quality control data and supporting documentation must be supplied at no additional cost to the Government.

3. Offeror shall provide a Start-Up plan addressing phase-in strategy and agree to a contractually binding timetable (see Section C.7).

4. The experience level of Proposed Key Personnel shall be provided. Offeror must complete the Key Personnel Resume Form (see Attachment C to this RFP) for each individual that the Offeror designates for the job titles listed in clause H.7 (KEY PERSONNEL) of this RFP. The Key Personnel Resume Form(s) must be submitted as part of the Offeror's Technical Proposal. Each Offeror must submit a letter of commitment for any proposed Key Personnel not currently employed by the prime/subcontractor(s) committing the employee to work for the prime/subcontractor contingent upon award of the contract.

5. The offeror should describe any reasonably foreseeable opportunities for future savings consistent with its technical approach. While the USPTO will consider savings associated with any aspect of contract performance, one area where the potential for saving may exist is in more efficient interface between the offeror's automated solution (if any) and the USPTO's systems. USPTO systems cannot currently support a means of interface other than that described in Section C.6.10, but future changes to these systems could potentially do so.

Evaluation of the described savings opportunities will be based on both the magnitude of the potential savings and likelihood that the savings can be realized. While any realistic possibility of future savings will be considered, offers that include contractually binding commitments to reduce the contract price based on future events will be

evaluated most favorably. Identification of potential future savings is not a requirement for award eligibility, and no offer will be rated below “acceptable” on this factor.

### L.3.2 Evaluation Factor B: Management Plan

The USPTO Project Team will evaluate the feasibility, credibility, relevance, quality, responsiveness and completeness of the Offeror's Management Plan as well as the Offeror's Experience and Past Performance. The Offeror is required to clearly indicate which of its responses to this evaluation factor address each of the items listed below.

1. The Offeror shall demonstrate its previous company experience for the same or similar services required by Section C of this RFP. The Offeror will be evaluated based on the type, size and complexity of its previous experience.

2. Specific Management Plan for the contract.

(a) The offeror shall provide the total number of employees to be assigned to this contract, including an organizational chart containing labor categories and job descriptions. The offeror shall further include any teaming or subcontracting arrangements, as well as the plan to manage any such arrangements.

(b) The offeror shall provide a plan for recruitment and retention of highly qualified personnel necessary to meet the requirements in Section C of this RFP.

3. The Project Team will assess the Offeror's past and present performance in similar services in programs of similar size and complexity. The USPTO will utilize past performance information submitted by each offeror in response to the solicitation. Each offeror will have the cognizant contract reference complete a Past Performance Questionnaire for each contract provided as a past performance reference under its proposal (see Attachment B to this RFP). Each cognizant contract reference must (1) Fully complete and sign the questionnaire found at Attachment B; (2) Place the questionnaire in a sealed envelope which contains the cognizant contract reference agency's/company's letter head and (3) Return the sealed envelope to the evaluated Offeror for inclusion in Volume I of the Offeror's proposal to be submitted to the USPTO by the RFP closing date. Offerors are prohibited from opening the sealed envelope containing the completed questionnaire. If the USPTO determines that the Offeror opened the sealed references or tampered with a questionnaire in any way, the Offeror will be deemed ineligible for award. Each prime contractor and any proposed subcontractor **shall provide three (3) Government and/or commercial past performance contract references**. These contract references must be currently in process or completed within the past three years and must be or have been the customer receiving the actual services provided. The Project Team will also assess the relevance of the Offeror's submitted Past Performance Questionnaires.

During the evaluation process, the USPTO may use a variety of information sources in addition to information provided by the Offeror. These sources may include, but are not limited to, technical reports, commercial or any available published information, and information derived from present or past Government or commercial customers of the Offeror. The USPTO may use past performance information obtained from sources other than those identified by the Offeror. Those Offerors who have no relevant past performance history will not be evaluated either favorably or unfavorably on past performance. Past performance information obtained will be used for both responsibility determination and the best value decision.

Any information found to be unreliable may result in a negative rating to the offeror. If a prime contractor is not able to provide three (3) references, the offeror shall certify that the references provided are all of the references available as of the date of submission. False information provided concerning references or offeror certifications will result in the USPTO not considering an offeror for award of any resulting contracts. If an offeror cannot provide requisite number of references, a certification so stating is required.

Notes:

- The USPTO reserves the right to determine which contracts submitted by the Offeror are relevant to the requirements and to utilize only those references.
- The USPTO reserves the right to either contact the references provided or to rely on the reference submissions. By providing the USPTO the above contacts, the Offeror is certifying that it has contacted the referenced individuals and given permission for the USPTO to contact said individuals. In the event that the USPTO needs to contact the reference for further information and the reference does not respond within a reasonable time frame, the past performance reference may not be considered.

### L.3.3 PRICE (FACTOR C)

The USPTO anticipates award of single contract that contains Fixed Price Requirements Contract Line Item Numbers (CLIN), Fixed Price Indefinite Delivery/Indefinite Quantity (IDIQ) CLINs, and one Firm Fixed Price CLIN as indicated below:

<u>CLIN</u>	<u>TYPE</u>
0001A through 0001K	Fixed Price Requirements
0002A through 0002K	Fixed Price IDIQ
0003A through 0003K	Fixed Price IDIQ
0004A through 0004K	Fixed Price IDIQ
0005A through 0005K	Fixed Price IDIQ
0006	Firm Fixed Price

Offerors shall only provide unit and total pricing for each CLIN listed in Section B.3 through B.12 and submit this with their proposal. Section B.3 through B.12 shall serve as a template for the price submission. Offerors must propose unit prices and total prices for each CLIN for all periods of performance. For the Requirements CLINs, realistic estimates are provided and for the IDIQ CLINs, the Government's minimum, maximum, and estimated quantities are provided. The estimated quantities will be added to the Firm Fixed Price CLIN and used for price proposal evaluation.

### L.4 SUBMISSION FORMAT REQUIREMENTS

All proposal documents shall be submitted as outlined below:

- paper form (one original and three (3) copies) on white, untextured paper;
- one copy on a 3.5", high-density diskette or CD formatted for Microsoft® Office 2000 (or newer) and formatted for 8 1/2" by 11" single-spaced print;
- page margins shall be one (1) inch on all sides;
- the type for all proposal documents (including charts and graphs) shall be black;
- the font shall be Times New Roman 12 pt;

Failure to submit proposals in compliance with these requirements may result in a determination that the proposal is non-compliant, which may eliminate the proposal from further consideration.

Submission of proposals, modifications or withdrawals of proposals shall **not** be accepted by facsimile or E-mail. Documents shall be delivered as a single package and be marked with the Solicitation No. 52-PAPT-05-01020 on the outside of the package.

All proposal documents shall be received **no later than 2:00 p.m., Eastern Standard Time (EST), April 10, 2006.**

**IMPORTANT!** Depending on the mode of delivery, Offerors' responses should be addressed as follows:

**U.S. Postal Service**

U.S. Patent and Trademark Office  
Mail Stop 6  
Office of Procurement  
PO Box 1450  
Alexandria, VA 22313-1450  
Attn: Chris Hannah

**\*Hand carried, Courier, or Non-USPS Mail Service**

U.S. Patent and Trademark Office  
Office of Procurement  
Attn: Chris Hannah  
Madison East  
7<sup>th</sup> Floor, Corridor D, Room 41  
600 Dulany St.  
Alexandria, VA 22313-1450

When proposals are hand-carried or sent by courier service, the Offeror assumes the full responsibility for insuring that the proposals are received by the date and time specified above.

**\*The rights of ingress and egress to and from USPTO facilities for Contractor personnel is controlled by security. Therefore, Offerors are responsible for allowing sufficient time to be processed through security to ensure that its proposals are received by USPTO's Office of Procurement by the time and date specified above.**

## **L.5 PRE-PROPOSAL CONFERENCE**

A pre-proposal conference will be held at USPTO Headquarters located in Alexandria, VA 22313-1450. The **estimated** date of the pre-proposal conference is March 15, 2006. The exact date and location will be posted at <http://www.uspto.gov/web/offices/ac/comp/proc/currproj.htm> under the home page for this RFP. At the pre-proposal conference, the USPTO will answer questions that prospective offerors would like addressed. However, the questions and answers provided at the pre-proposal conference will only become part of the official procurement record if they are submitted in writing and posted in accordance with the procedures in paragraph L.6 below. All prospective offerors interested in attending the Pre-Proposal Conference must register no later than March 13, 2006 by contacting Chris Hannah via email at [chris.hannah@uspto.gov](mailto:chris.hannah@uspto.gov).

## **L.6 QUESTIONS AND RESPONSES**

All questions pertaining to the RFP shall be submitted electronically to [PGPUBClassification@uspto.gov](mailto:PGPUBClassification@uspto.gov). Questions must identify the author and company name. All questions and responses pertaining to the RFP will be published and made available at <http://www.uspto.gov/web/offices/ac/comp/proc/currproj.htm>. The identity of the author and associated company name of the question will not be published. All questions regarding the RFP are due by 4:00 p.m. E.S.T. March 16, 2006. Receipt of late questions will **not** result in an extension to the proposal due date, nor can the USPTO guarantee that a response will be provided before the proposal due date.

## **L.7 SMALL BUSINESS SUBCONTRACTING PLAN**

Section I of this RFP contains Federal Acquisition Regulation (FAR) Clause 52.219-09 Small Business Subcontracting Plan. This clause states that all contractors, other than small businesses, receiving federal awards in excess of \$500,000 (\$1,000,000 for construction) are required by Public Law 95-507 to submit acceptable subcontracting plans prior to contract award. These subcontracting plans must specify goals and demonstrate contractors' best efforts to subcontract to small, small disadvantaged, (8a), HUBZone, veteran-owned, service disabled veteran-owned and women-owned small businesses. The current U.S. Department of Commerce and USPTO subcontracting goals are:

44%...small business  
16%...small disadvantaged  
8%...women-owned small  
3%...HUBZone small

- 3%...veteran-owned small business
- 3%...service-disabled veteran-owned

These target goals are to be applied to the overall value of the acquisition. The USPTO recommends that all Offerors required by FAR Clause 52.219-09 to submit a Small Business Subcontracting Plan submit it with the Offeror's proposal prior to the closing date and time for this RFP in the format prescribed at the following Department of Commerce website <http://www.osec.doc.gov/osdbu/Subcontracting.htm> (select Subcontracting Outline). If an Offeror's Small Business Subcontracting Plan does not reflect the goals shown above, then the Offeror should submit a detailed justification explaining why the goals are unattainable and indicate the market research that was conducted to identify the type of small businesses shown above.

## **L.8 INCUMBENT CONTRACTOR**

USPTO employees currently perform this requirement. No contractor has ever performed these duties.

## **L.9 52.233-2 SERVICE OF PROTESTS (AUGUST 1996) (DEVIATION)**

- A. Protests, as defined in Section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgments of receipt from:

United States Patent and Trademark Office  
OFFICE OF PROCUREMENT  
Attn: Chris Hannah  
Mail Stop 6  
P.O. Box 1450  
Alexandria, VA 22313-1450

FAX: 571-273-0284

- B. The copies of any protest shall be received in the offices designated above within one day of filing a protest with the GAO.

## **L.10 AGENCY-LEVEL PROTEST PROCEDURES**

### **AGENCY-LEVEL PROTEST PROCEDURES LEVEL ABOVE THE CONTRACTING OFFICER (DEC 1996)**

1. PURPOSE: To implement the requirements of Executive Order No. 12979 and Federal Acquisition Regulation (FAR 33.103). On October 25, 1995, President Clinton signed Executive Order No. 12979, which directs heads of executive agencies to develop administrative procedures for resolving protests to awards of procurement contracts within their agencies at a level above the Contracting Officer. Authority to administer procurement-related directives has been delegated within the Department of Commerce through the Chief Financial Officer and Assistant Secretary for Administration to the Director for Acquisition Management (Procurement Executive). The Department's goal is to encourage protesters to resolve their protests at the agency level, help build confidence in the Government's acquisition system, and reduce protests to the General Accounting Office and other external fora. Prior to submission of an agency protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the Contracting Officer level through open and frank discussions. If concerns cannot be resolved, protesters may use these procedures when a resolution is requested from the agency at a level above the Contracting Officer.

### **II. DEFINITIONS:**

An agency protest is one that may be filed with either the contracting officer or the protest decision authority but not both. When a protester decides to file a protest at the agency level with the protest decision authority, the guidelines set forth in these established agency level protest procedures above the contracting officer apply. These procedures are in addition to the existing protest procedures contained in the Federal Acquisition Regulation (FAR) Part 33.102.

A day is a calendar day. In computing a period of time for the purpose of these procedures, the day from which the period begins to run is not counted. When the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, when the Washington, DC offices of the Department of Commerce are closed for all or part of the last day, the period extends to the next day on which the Department is open.

### III. PROCEDURES:

a. Protesters using these procedures may protest to the protest decision authority who will make the final decision for the Department.

Protests shall be addressed to:

Mr. Howard Goldberg  
Acting Chief Financial Officer  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

The outside of the envelope or beginning of the FAX transmission must be marked "Agency-level Protest". The protester shall also provide a copy of the protest within 1 day to the responsible contracting officer and a copy to the addressee indicated below:

Office of the General Counsel  
U.S. Patent & Trademark Office  
Mail Stop 8  
P.O. Box 1450  
Alexandria, VA 22313-1450  
(FAX Number 571-273-0095)

b. Election of forum: While a protest is pending at the agency level with the protest decision authority, the protester agrees not to protest to the Government Accountability Office (GAO) or any other external forums. If the protester has already filed with the GAO or other external forums, the procedures described here may not be used.

1. Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or time set for receipt of proposals shall be filed prior to bid opening or the time set for receipt of proposals. If the contract has been awarded, protests must be filed within 10 days after contract award or 5 days after the date the protester was given the opportunity to be debriefed, whichever date is later. In cases other than those covered in the preceding two sentences, protests shall be filed not later than 10 days after the basis of the protest is known or should have been known, whichever is earlier.

2. To be filed on a given day, protests must be received by 4:30 PM current local time. Any protests received after that time will be considered to be filed on the next day. Incomplete submissions will not be considered filed until all information is provided.

3. To be complete, protests must contain the following information:

- (i) the protester's name, address, telephone number, and fax number
- (ii) the solicitation or contract number, name of contracting office and the contracting officer
- (iii) a detailed statement of all factual and legal grounds for protests, and an explanation of how the protester was prejudiced
- (iv) copies of relevant documents supporting protester's statement
- (v) a request for ruling by the agency
- (vi) Statement as to form of relief requested
- (vii) all information establishing that the protester is an interested party for the purpose of filing a protest
- (viii) all information establishing the timeliness of the protest

All protests must be signed by an authorized representative of the protester. Within 14 days after the protest is filed, the Contracting Officer will prepare an administrative report that responds to the issues raised by the protester

and addresses any other issues, which, even if not raised by the protester, have been identified by agency officials as being relevant to the fairness of the procurement process. For good cause shown, the protest decision authority may grant an extension of time for filing the administrative report and for issuing the written decision. When an extension is granted, the protest decision authority will notify the protester and all interested parties within 1 day of the decision to grant the extension. Unless an extension is granted, the protest decision authority will issue a decision within 35 days of the protest. The protest decision authority's final decision will be binding on the Department of Commerce and not subject to further appeals. The protest decision authority shall send a written ruling and a summary of the reasons supporting the ruling to the protester by certified mail, return receipt requested with information copies to the applicable contracting office and Office of Acquisition Management. Effect of protest on award and performance:

When a protest is filed prior to award, a contract may not be awarded unless authorized by the Head of the Contracting Activity (HCA) based on a written finding that:

- (i) The supplies or services are urgently required,
- (ii) delivery or performance would be unduly delayed by failure to make the award promptly, or
- (iii) a prompt award will be in the best interest of the Government.

When a protest is filed within 10 days after contract award or 5 days after a debriefing date was offered to the protester under a timely debriefing request in accordance with FAR 15.1004, whichever is later, the Contracting Officer shall immediately suspend performance pending the resolution of the protest within the agency, including any review by an independent higher official, unless continued performance is justified. The HCA may authorize contract performance, notwithstanding the protest, based on a written finding that:

- (i) contract performance would be in the best interest of the United States, or (ii) urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for a decision.

#### IV. REMEDIES:

The protest decision authority may grant one or more of the following remedies:

- (1) terminate the contract, (2) re -compete the requirement, (3) issue a new solicitation,
- (4) refrain from exercising options under the contract, (5) award a contract consistent with statutes and regulations,
- (6) amend the solicitation provisions which gave rise to the protest and continue with the procurement, (7) such other remedies as the decision-maker may determine are necessary to correct a defect.

#### **L.11 52.252-5 AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)**

(a) The use in the solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the provision.

(b) The use in the solicitation or contract of any Commerce Acquisition Regulation provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

#### **L.12 PROHIBITION ON MULTIPLE PROPOSALS**

An Offeror shall submit a maximum of one (1) proposal in response to the solicitation.

#### **L.13 EVALUATION OF PROPOSALS**

The USPTO will evaluate proposals and make an award in accordance with the evaluation criteria set forth in Section M of the RFP.

#### **L.14 AWARD WITHOUT DISCUSSIONS**

In accordance with FAR 52.215-1, the Government intends to evaluate proposals and award a contract without discussions with Offerors (except clarifications as described in FAR 15.306(a)). Therefore, the Offeror's initial proposal should contain the Offeror's best terms from a price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. In accordance with the Patent and Trademark Office Acquisition Guidelines (PTAG), if discussions are deemed necessary, the Government will limit the competitive range to the three (3) highest evaluated Offerors. Also, in accordance with the PTAG, the USPTO Contracting Officer may conduct discussions with only the highest ranked Offeror based on the evaluation factors set forth in the solicitation. If the USPTO Contracting Officer is unable to reach agreement

with this Offeror, discussions will be initiated with the next highest-ranked firm. This process will continue until those firms remaining in the competitive range have been considered. If agreement cannot be reached, discussions may be re-opened with all firms in the competitive range or the solicitation may be canceled.

#### **L.15 NEWS RELEASES**

Offerors shall make no news releases pertaining to the solicitation or subsequent contract award without prior agency approvals and then only in coordination with the Contracting Officer.

#### **L.16 INCURRING COSTS**

The USPTO shall not be obligated to pay any cost incurred by the Offeror in the preparation and submission of a proposal in response to the solicitation. The Offeror is advised that the Contracting Officer is the only person who can legally obligate the USPTO for the expenditure of public funds in connection with this procurement.

#### **L.17 AMENDMENTS TO PROPOSALS**

Amendments to proposals shall be submitted prior to the solicitation closing date as a complete revised proposal and labeled "Revised Proposal." Change pages will not be accepted.

#### **L.18 PERIOD FOR ACCEPTANCE OF OFFERS**

In compliance with the solicitation, the Offeror agrees, if this offer is accepted within 180 calendar days from the date specified in the solicitation for receipt of proposals, to furnish any or all items upon which prices are bid.

**L.19 NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS)** - The North American Industry Classification System (NAICS) code for this acquisition is 541519.

#### **L.20 SUMMARY**

Offerors shall be responsible for accessing the web page, the Current Patent and Trademark Office Acquisition Projects page <http://www.uspto.gov/web/offices/ac/comp/proc/currproj.htm> for any changes to the solicitation. All changes will be posted at this location. Offerors who fail to submit the requested information as detailed in Section L of the RFP by the due date will not be considered for further evaluation.

In summary, Offerors are required to submit the following in response to the RFP:

- Volume I
  - A. Technical Approach
    - (1) Ability to Perform Breadth of Services
    - (2) Ability to achieve the acceptable quality levels
    - (3) Proposed Start-Up plan
    - (4) Key Personnel Resumes
    - (5) Future Price Savings
  - B. Management Plan
    - (1) Previous company experience
    - (2) Specific Management Plan for the contract.
    - (3) Past Performance

\* Volume I shall not exceed 45 total pages exclusive of Past Performance Questionnaires (Attachment "B" to this RFP) and Letters of Commitment for any proposed Key Personnel (see Attachment "C" to this RFP)

- Volume II
  - C. Price Proposal
  - D. A completed Section K (Certifications and Representations)





**SECTION M – EVALUATION FACTORS FOR AWARD****M.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (Feb 1998)**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The Offeror is cautioned that the listed provisions may include blocks that must be completed by the Offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the Offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address: <http://www.arnet.gov/far/>

Clause	Title	Date
52.217-5	Evaluation of Options	July 1990
52.232-15	Progress Payments Not Included	Apr 1984

**M.2 EVALUATION OF OPTIONS**

The Government will evaluate offers for award purposes by adding the total price for all options (including award terms) to the total price for the basic (base year) requirement. Evaluation of options will not obligate the Government to exercise the options.

**M.3 UNBALANCED OFFERS**

The USPTO reserves the right to reject an offer if it is materially unbalanced as to prices, and it is determined that award of such an offer would not result in the lowest overall price to the USPTO, or may otherwise be improper. An offer is unbalanced when it is based on prices significantly less than the cost for some items and prices, which are significantly overstated for other items.

**M.4 BASIS OF CONTRACT AWARD**

Award of the contract will be made to the responsive, responsible Offeror whose proposal, including all options, contains the combination of non-price and price factors offering the best overall value to the USPTO. This will be determined by comparing differences in the USPTO evaluated value of each Offeror's non-price and price factors. The USPTO shall determine what tradeoff among non-price and price factors promises the greatest value to the USPTO within the confines of the relative importance of the evaluation factors. The basis for award of a contract as a result of the RFP will be an integrated assessment by the USPTO based on the evaluation factors described below. Award will not be automatically determined by numerical calculation or formula.

To be eligible for source selection and contract award, the Offeror shall meet the following conditions:

- Determined to be responsible according to the standards of FAR Subpart 9.1
- Complies with all applicable laws and regulations and agrees to terms and conditions set forth in the solicitation
- Proposal is prepared according to instructions set forth in the solicitation and demonstrates the Offeror's capability to perform the scope of work required
- Meets all mandatory requirements set forth in Sections C and J
- Provides the best overall value to the USPTO as represented by a combination of non-price and price factors.

**M.5 AWARD WITHOUT DISCUSSIONS**

In accordance with FAR 52.215-1, the Government intends to evaluate proposals and award a contract without discussions with Offerors (except clarifications as described in FAR 15.306(a)). Therefore, the Offeror's initial proposal should contain the Offeror's best terms from a price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. In accordance with the Patent and Trademark Office Acquisition Guidelines (PTAG), if discussions are deemed necessary, the Government will limit the competitive range to the three (3) highest evaluated Offerors. Also, in accordance with the PTAG, the USPTO Contracting Officer may conduct discussions with only the highest ranked Offeror based on the evaluation factors set forth in the solicitation. If the USPTO Contracting Officer is unable to reach agreement with this Offeror, discussions will be initiated with the next highest-ranked firm. This process will continue until those firms remaining in the competitive range have been considered. If agreement cannot be reached, discussions may be re-opened with all firms in the competitive range or the solicitation may be canceled.

**M.6 EVALUATION PROCEDURES**

The USPTO will use the evaluation process described in the following paragraphs for proposals received in response to the USPTO PG PUB and Initial Classification RFP. The USPTO will evaluate and make award based upon the evaluation criteria provided below:

- A. Technical Approach
  - (1) Ability to Perform Breadth of Services
  - (2) Ability to achieve the acceptable quality levels
  - (3) Proposed Start-Up plan
  - (4) Key Personnel Resumes
  - (5) Future Price Savings
- B. Management Plan
  - (1) Previous company experience
  - (2) Specific Management Plan for the contract.
  - (3) Past Performance
- C. Price Proposal
- D. A completed Section K (Certifications and Representations)

**A. Technical Approach**

The USPTO Project Team will evaluate the feasibility, credibility, relevance, quality, responsiveness and completeness of the Offeror's technical approach to providing the services required under Section C of this RFP.

**B. Management Plan**

The USPTO Project Team will evaluate the feasibility, credibility, relevance, quality, responsiveness and completeness of the Offeror's Management Plan as well as the Offeror's Experience, viability and Past Performance.

**C. Price Proposal**

The USPTO will evaluate the Offeror's proposal and pricing of all CLIN items listed in Section B. The price proposal will be reviewed and analyzed in depth, but will not be scored. The USPTO will evaluate the Offeror's proposal and pricing utilizing the estimated quantities of all CLIN items for the base period and all option/award term periods listed in Section B.4 through Section B.12.

**D. Representations and Certifications**

Representations and Certifications will be evaluated but not scored.

**E. Relative Importance of Evaluation Factors and Best Value Determination**

The Non-Price Evaluation Factors' importance is in the following descending order with the most important factor listed first: Factor A Quality Assurance Plan and Factor B Management Plan. The subfactors under each factor are listed in descending order of importance in the opening paragraph of this section M.6. When combined, the Non-Price Factors are significantly more important than Factor C Price Proposal. Factor C Price Proposal will be evaluated but not scored.